

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

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OFFICE OF THE CLERK

WOLFGANG RÜST and BOBBY CONN,

4:08CV3185

Plaintiffs,

BRIEF IN OPPOSITION  
OF DEFENDANTS'

VS.

MOTION FOR

NEBRASKA DEPARTMENT OF  
CORRECTIONAL SERVICES RELIGION  
STUDY COMMITTEE, et.al.,

SUMMARY JUDGMENT

Defendants.

INTRODUCTION

Wolfgang Rüst and Bobby Conn (hereinafter "Plaintiffs") are inmates of the Nebraska Department of Correctional Services (hereinafter "NSP"). The Plaintiffs have filed a civil rights action for damages, declaratory relief, and injunctive relief pursuant to 42 U.S.C. §2000cc, et. seq., and 42 U.S.C. §1983. The Plaintiffs allege that the Defendants have violated their rights under the Religious Land Use and Institutionalized Persons Act (hereinafter "RLUIPA") and the First Amendment. The Plaintiffs contend that the Defendants have placed a substantial burden on their ability to exercise their religion.

The Plaintiffs' request, inter alia, recognition of Theodish Belief as a separate and distinct faith group as compared to Asatru ; separate time and space for Theodish specific worship; approval of Theodish specific devotional items necessary for valid Theodish practice; prohibit the coerced inculcation of unwanted religious exercise from other faith groups; retain personal religious materials beyond four cubic feet; Administrative Regulation 208.01 Religious Services and Defendants' policy sets an illegally high standard in violation of 42 U.S.C. §2000,cc, et seq. (Amended Complaint) Plaintiffs' also seek \$10,000.00 (ten thousand) dollars in monetary relief from each Defendant in their official and individual capacity, for violation of both the Freedom of Association and Free Exercise Amendment of the United States Constitution; and \$10,000.00 (ten thousand) dollars from each Defendant in their official capacity for violation of RLUIPA (Amended Complaint).

#### STATEMENT OF FACTS

1. On or about August 22, 2008, Plaintiffs submitted a verified Civil Rights Complaint with nine (9) exhibits annexed and incorporated in said Complaint by reference to each exhibit of which the Plaintiffs' RLUIPA and First Amendment Claims against Defendants were allowed to proceed as set forth in the December 1, 2008 Memorandum and Order.

2. On or about June 29, 2009, pursuant to this Court's Memorandum and Order, Plaintiffs verified Amended Complaint, with

ten (10) exhibits [annexed and incorporated by reference thereof], was filed.

3. Plaintiffs request this Court consider the verified Amended Complaint, with said exhibits annexed thereto, as an Affidavit in Opposition of the Defendants' Motion for Summary Judgment. Plaintiffs' Amended Complaint and exhibits are equivalent to an Affidavit for purposes of summary judgment proceedings. See Williams v. Adams, 935 F2d 960, 961 (8th Cir. 1991); Callum v. Axdahl, 2007 WL 1289949 (D.Neb. 3/12/07) at 1.

4. On or about July 25, 2003, "A Proposal for the Recognition of Theodish Belief (hereinafter "Proposal") and a "Synopsis of the Differences Between Theodish Belief and Asatru" (hereinafter "Synopsis") was presented for: (a) Recognition of Theodish Belief as a separate faith belief and practice from Asatru, (b) separate time and space for Theodish Belief specific worship, and (c) devotional items necessary for valid Theodish practice (Amended Complaint Exhibits #3 and 4).

5. Theodish Belief Sacral King Garman Lord submitted a letter which apprised the Defendants that Theodish Belief and Asatru are two radically different letters (Amended Complaint pp. 12-13 ¶18 and Exhibit #5) and the requested devotional items are indeed necessary for valid Theodish practice (Amended Complaint Exhibit #6).

6. Defendants have determined Theodish Belief and Asatru religious orthodoxy and orthopraxy are essentially the

same.

7. In the interest of brevity, the Plaintiffs, in the various paragraphs of the Amended Complaint's "STATEMENT OF FACTS", cite to specific pages in Exhibits #3 and 44 to set forth in greater detail the specific beliefs and practices of Theodish Belief and Asatru.

8. Defendants scheduled one single communal worship time for Theodish Belief and Asatru on the same Asatru sacred space, (Amended Complaint Exhibit #9), even when there are available outdoor space for a separate Theodish Belief worship site, (Amended Complaint pp. 18-19 ¶29 & 30 and Exhibit #10).

9. Theodish Belief consists of: The Kings Religion—the version of Theodism which all ordained Veofodthanes (priests) and other Kings Men are required to practice in their public ritual; mainstream Theodism—which is the most widely accepted and practiced form of Theodism which pretty much parallels the King's Religion; and "everything else" (a.k.a. Roöftree: A familial unit, usually the nuclear family plus an extended family of blood and in law, i.e., oathed, relationship) which means variations in practice and belief sometimes found (Amended Complaint Exhibit #3, at p.#8, ¶ with footnote #15).

10. Plaintiffs are subjected to coerced inculcation of unwanted religious messages and/or religious exercise from other faith groups in the Religious Center even when there are eight rooms available below the Religious Center stage or the classrooms in the school which are not used during the evening

hours, and during the day and evenings on weekends and holidays (Plaintiffs' Exhibit #1).

11. Plaintiffs are denied an exemption to retain religious materials beyond four cubic feet and/or denied an option to store said materials elsewhere.

#### ARGUMENT

#### 1. DEFENDANTS TREATMENT OF THEODISH BELIEF VIOLATES RLUIPA AND THE FIRST AMENDMENT.

"By enacting RLUIPA, Congress established a statutory free exercise claim encompassing a higher standard of review than that which applies to constitutional free exercise claims." Murphy v. Missouri Department of Corrections, 372 F.3d 979, 986 (8th Cir. 2004). Moreover, Congress has mandated that courts construe the Act "in favor of a broad protection of religious exercise," to the maximum extent permitted by law. 42 U.S.C. §2000-3(g). Thus, the RLUIPA standard poses a far greater challenge than does traditional free exercise analysis to prison regulations that impinge on inmates' free exercise of religion.

Congress effectuated this intent by distinguishing RLUIPA from traditional First Amendment claims in at least two ways. First, it expanded the reach of the protection to include any "religious exercise" including "any exercise of religion whether or not compelled by or central to, a system of religious belief." Cutter v. Wilkinson, 544 U.S. 709, 713 (2005)(quoting 42 U.S.C. §2000cc-5(7)(A)). In fact, RLUIPA "bars inquiry into whether a

particular belief or practice is [']central['] to a prisoners religion, the Act does not preclude inquiry into the sincerity of a prisoner's professed religiosity. Cutter,supra, 544 U.S., at 725, N.13; 42 U.S.C. §2000cc-5(7)(A). Second, as opposed to the deferential rational basis standard of Turner v. Safley, 482 U.S. 78, 89-90 (1987), RLUIPA requires the government to meet the much stricter burden of showing that the burden it imposes on religious exercise is "in furtherance of a compelling governmental interest; and is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. §2000cc-1(a)(1) and (2). See also, Cutter, 544 U.S., at 717. Furthermore, in Gladson v. Iowa Department of Corrections, 551 F.3d 825, 833 (8th Cir. 2009), the court noted "In light of Cutter, we have recognized that portions of the definition [stated in Murphy] requiring beliefs to be a [']central tenet['] or [']fundamental['] may not apply to a RLUIPA claim, Patel, 515 F.3d, at 813, N.7".

Defendants' arguments appear to assume the First Amendment and RLUIPA protect the rights of religious groups. Both protect the individual's religious practice from government interference, regardless of the individual's membership in ay particular religious group. RLUIPA addresses the imposition of "a substantial burden on the religious exercise of a person," not a member of a religious group, and Congress enacted RLUIPA in the context of Supreme Court decisions holding that the First Amendment's Free Exercise Clause protects an individual's right to follow his



or her sincerely held religious belief. The protection is in force even if the Plaintiffs' belief is not held by all adherents of a religious group, Thomas v. Review Bd. of Indiana Employment Sec. Div., 450 U.S. 707, 715-16 (1981), and even if it is purely personal. Frazee v. Illinois Dept. of Employment Security, 489 U.S. 829, 834 (1989)(rejected the notion that to claim the protection of the Free Exercise Clause, one must be responding to the commands of a particular religious organization).

The Eighth Circuit has made it clear that it is irrelevant whether a particular religious practice is mandated by the religion in question. Instead, the relevant inquiry is whether the prisoner's desire to engage in a particular practice is based upon his own, sincerely held religious belief. Goff v. Graves, 362 F.3d 543, 547 (2004)(providing that the religious practice in question must be "based on"—but not mandated by—"sincerely held" religious beliefs); Love v. Reed, 216 F.3d 682, 687, N.9 (2000)(explaining that the relevant inquiry is whether the religious belief is "sincerely held" and not whether it is ecclesiastical law).

Administrative Regulation 208.01, RELIGIOUS SERVICES (hereinafter "A.R. 208.01"), programming section IV.B.1., 2., 3.a.b. of Defendants' Exhibits (Ex.1, p.6; Ex.30, pp. 6-7; Ex.31, p.6; Ex.32, p.6; Ex.33, p.6; Ex.34, p.6; Ex.35, p.6; Ex.36, pp. 5-6) specifically requires an inmate and the faiths community organization or religious leadership, for a request to practice a faith not presently recognized by the Department, to provide

a list of faith specific doctrines, practices and/or items, including food, and rationale for the necessity of such. (Emphasis supplied). When the requested faith practice is authorized, the Religious Coordinator will coordinate necessary activities to allow the inmate the opportunity to participate in practices of his/her faith deemed essential by the faith's judicatory. (Emphasis supplied). Thus, Defendants' A.R. 208.01 clearly establishes the tenets of Plaintiffs' Theodish Belief faith had to be submitted, reviewed, approved/disapproved, and only the faith practices deemed essential by the faiths judicatory would be authorized.

On or about July 25, 2003, Plaintiff Rüst's "A Proposal for the Recognition of Theodish Belief" and "Synopsis of the Differences Between Theodish Belief and Asatru" ("Proposal" and "Synopsis" respectively), was submitted to the Defendants and to Theodish Belief Sacral King Garman Lord (Amended Complaint ¶17, pp. 11-12). The Proposal and Synopsis sought: (a) recognition of Theodish Belief as a faith group separate from Asatru; (b) separate time and space for Theodish Belief specific worship; and (c) the devotional items necessary for valid Theodish Belief practice. (Amended Complaint, pp. 11-12, ¶17 in which Exhibits #3 and 4 are annexed and incorporated by reference). Theodish Belief Sacral King Garman Lord submitted a letter apprising Defendants that Theodish Belief and Asatru are two radically different letters (Amended Complaint ¶18, pp. 12-13; Defendants' Ex.17).



Instead, Defendants rejected the Plaintiffs' sincerely held Theodish Belief orthodoxy and orthopraxy and then determined what Plaintiffs' Theodish Belief orthodoxy and orthopraxy is when Defendants chose to determine that Theodish Belief and Asatru religious orthodoxy and orthopraxy were essentially the same, thereby imposing a substantial burden on Plaintiffs' religious exercise under RLUIPA. Teterud v. Burns, 522 F.2d 357, 360 (8th Cir. 1975)(Free Exercise prison case held, "[i]t is not the province of government officials or court to determine religious orthodoxy"); Allah v. Menei, 844 F.Supp. 1056, 1064-65 (E.D.PA. 1994)(RFRA prison case held "there is a constitutional difficulty in the state's deciding whether two different religious beliefs are essentially the same").

The prison has established a system of individualized exemptions which impose a substantial burden on Plaintiffs' religious exercise. In circumstances which individualized exemptions from a general requirement are available, the government may not refuse to extend that system to cases of religious exercise without compelling reasons and refusal to consider a sincerely held religious belief tends to exhibit hostility, not neutrality, towards the particular religious exercise. Bowen v. Roy, 476 U.S. 693, 708 (1986).

"The exercise of religion often involves not only belief and profession but the performance of (or abstention from) physical acts: assembling with others for a worship service, participating

in sacramental use of bread and wine, . . . abstaining from certain foods . . . ". Cutter v. Wilkinson, 544 U.S. 709, 720 (2005); Employment Div., Dept. of Human Res. v. Smith, 494 U.S. 872, 877 (1990).

Separate worship time and space for Theodish Belief

Controverted material facts exist to establish that Plaintiffs' Theodish orthodoxy and orthopraxy are significantly different and incompatible with Asatru beliefs and practices which require a separate time and space for Theodish specific worship.

Plaintiffs briefly outlined the Asatru Blot in paragraph #31 and the Theodish Belief Faining in paragraph #32 where Plaintiffs cite to specific pages in the Amended Complaint's Exhibits #3 and 4 for greater detail.

Plaintiffs consider the Asatru Blots EDDA-Based Voluspa's Renewal of life ritual drama of Rangnarok to be blasphemous to our gods and to what our religion stands for (Amended Complaint Exhibit #3, pp. 36-39; Exhibit #4, p. 13). Odinn is celebrated in the Asatru Blot for establishment of the cosmos (Amended Complaint Exhibit #3, pp. 31-32 and Exhibit #4. pp. 13 and 30). Plaintiffs consider the Asatru-based litany of Odinn as trouble-maker/betrayer to be blasphemous (Amended Complaint Exhibit #3, p. 17 and Exhibit #4, p. 6). Furthermore, the Continental/English/Theodish god Wodan, Woden, and Wuotan cannot be <sup>invoked</sup>~~involved~~ and/or worshipped in the same Faining (Blot, Symbel, etc.) and the same sacred space with Asatru Odinn since to do so will taint and

destroy a mystical working (Blot, Symbol, etc.) or a religious space dedicated to Wodan, Woden, or Wuotan (Amended Complaint p. 30, ¶53).

A valid Theodish Faining involves <sup>CLEANSING</sup>~~cleaning~~ the sacred space of all harmful forces, i.e., the Asatru Sun Wheel Land Design, the Asatru EDDA-Based blasphemous concepts of <sup>Odin</sup>~~Woden~~ which impregnate the soil, air, etc. (Amended Complaint pp. 25-27, ¶42-46) or not permitting the introduction of foreign concepts of the gods, elves, creation, etc. (Amended Complaint pp. 19, ¶31, p. 29, ¶53, p. 32, ¶58).

Defendants appear to be resurrecting the ancient christian practice of Pope Gregory to destroy heathen faith of Asatru (Amended Complaint p. 27, ¶46 and Exhibit #4, p. 20) or to create strife between Theodish Belief and Asatru when Theodish Belief clears the Asatru Ve of all the harmful forces supra, (Amended Complaint's Exhibit #3, p. 63 and Exhibit #5, pp. 4-5; Defendants' Exhibit #17, pp. 4-5).

Only those who love the Sacral King and the institution of Sacral Kingship and accept Theodish creation and cosmography are allowed to participate in the Theodish Sacrifice and Feast (Amended Complaint pp. 22-23, ¶36 and 38, p. 29, ¶51). The Asatru EDDAs state the descendants of Ymir/Tuisto are evil (Amended Complaint Exhibit #3, p. 29 and Exhibit #4, p. 11) and the Sacral Kingship: Tuisto, Woden and Ing. Asatru finds Theodish institution of Sacral Kingship positively obnoxious

and patently an insult to the ideological spirit and significance of their religion which places them outside the Holy Grail folk-religious institution of Sacral Kingship and deprives Asatru of Theodish Belief construct (Amended Complaint pp. 23-24, ¶39). Thus, Asatru will not participate as non-Theodsmen in the Theodish Blot.

Defendants' brief at pp. 15-16 cite Ex. #13, p. 1 and Ex. #14, p. 4 for the premise that Theodish and Asatru practitioners are able to compromise and worship together on the same ground thus joint worship with Asatru is a part of the thology of Theodish Belief. That Ex. #14 is a July 21, 1999 e-mail to Chaplain Perreira and Ex. #13 Theodism and Asatru article by Garman Lord which had no date indicating when it had been written. Defendants utilize the early writings of Garman Lord to establish a theology of Theodish Belief. Defendants completely ignore and/or reject the latest writing and statement embodied in the January 6, 2004 letter from Garman Lord to Randall Donner (Defendants' Ex. #18; Amended Complaint's Exhibit #5) and the May 28, 2009 deposition testimony of Plaintiffs' expert witness J.Dirk Reek that Garman Lord's writings demonstrate a break from relationship with Asatru into a separate and distinct religion which is analogous of the Schisms from the ~~Catholic~~ <sup>Catholic</sup> Church, e.g., Martin Luther in the 1500s to create the Lutheran Church (Plaintiffs' Affidavit).

Defendants' brief at p. 16 cites Ex. #14, p. 1 for the premise "anything Garman Lord might say or endorse, theologically,

may be cited as precedent and is part of the theology of Theodish Belief forever." Defendants' argument clearly establishes the January 6, 2004 letter from Garman Lord to Randall Donner (Defendants' Exhibit #18; Amended Complaint's Exhibit #5) which endorses Plaintiffs' "Proposal" and "Synopsis" (Amended Complaint's Exhibit #3 and Exhibit #4) submitted with "The Chapel Memo from Randall Donner to RSC Members, dated July 25, 2003" (Defendants Exhibit #15) and supercedes and nullified the "Theodism and Asatru article by Garman Lord" (Defendants' Exhibit #13) and the "E-mail from Garmin (sic) Lord to Chaplin (sic) Perreria dated July 21, 1999" (Defendants's Exhibit #14).

Defendants impose a substantial burden on Plaintiffs' religious exercise of participation in Theodish Belief specific group worship by requiring a joint worship time and space which results in forcing Plaintiffs to change their sacred worship orthopraxy and violate their beliefs. Thomas v. Review Bd. of Indiana Employment Sec., 450 U.S. 707, 718 (1981)(where it denies a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his beliefs, a burden exists). Defendants do not force Catholics to change their sacred mass (worship) instead Defendants permit separate Catholic worship time.

Foodstuffs and Mead

Each god has ritual foodstuffs and when Plaintiffs engage in a sacrifice of ritual organic foodstuffs we engage in a sacrifice of that god to that god (Amended Complaint p. 32, ¶59). Theodish Belief theology involves the sacrifice of "organic foodstuffs" and "free range meat products", and to sacrifice ordinary agribusiness-produced supermarket products is blasphemy (Amended Complaint pp. 32-33, ¶60). The Theodish Belief Sacrificial Feast and Holy Drink stand in direct opposition to the Christian sacrament of the Holy Eucharist and Holy Drink (Amended Complaint's Ex. #3, pp. 123-127 and Ex. #4, pp. 30-31).

Defendants' argument (Brief at 16-17) is based on the mistaken premise that Garman Lord indicates organic foodstuffs and free range meat products are not essential to the practice of Theodism and that Plaintiffs can purchase foodstuffs needed for worship from the canteen (Defendants' Ex. #18, p. 2). First, Garman Lord indicates this is the first time Theodish Belief has had to deal with the constraints of organized practice behind bars. Thus, Garman Lord has no knowledge of how a correction system or prison canteen operates (Defendants' Ex. #18, p. 1).

Second, Garman Lord states: "Moreover, it is a setting in which, in some cases, we must allow some latitude for Leoden Rust to overrule me if he needs to, based on his far greater knowledge of conditions in an incarcerated setting than my own." (Defendants' Ex. #18, p. 1). Third, Garman Lord indicts organic



and unprocessed foodstuffs are preferred wherever available.

The guarantee of Free Exercise and RLUIPA is not limited to beliefs which are shared by all of the members of a religious sect. Thomas v. Review Bd. of Indiana Employment Sec., 450 U.S. 707, 715-16. The relevant inquiry is whether Plaintiffs' religious beliefs are "sincerely held" and not whether it is ecclesiastical law. Love v. Reed, 216 F.3d 682, 688, N.9 (8th Cir. 2000). "RLUIPA bars inquiry into whether a particular belief is "central" to a prisoners religion, see 42 U.S.C. 2000cc-5(7)(A), the Act does not preclude inquiry into the sincerity of a prisoners religiosity." (citation omitted) Cutter v. Wilkinson, 544 U.S., at 725.

The sacrifice of "organic foodstuffs" and "free range meat products" are the Plaintiffs' sincerely held Theodis Belief religious orthodoxy and orthopraxy. Plaintiffs have compromised and offered to to purchase the "organic foodstuffs" and "free range meat products" from a health food grocery in lieu of the historical Theodish sacrifice of live animals.

Defendants authorize the purchase utilization and consumption of the Holy Eucharist and wine for the various Christian groups, Matzo for House of Yahweh and Judaism, and ceremonial foods for the Native Americans but Defendants refuse authorization of Plaintiffs' request to purchase, utilize and consume Theodish Beliefs sacred Sacraficial Foods and Holy Drink. The Defendants better treatment of the various Christian faith groups, House of

Yahweh, Judaism, and Native Americans by allowing individualized exemptions to purchase, utilize and consume their respective sacred sacraments shows the Defendants' refusal to allow Plaintiffs to purchase, utilize and consume "organic foodstuffs" and "free range meat products" for the Theodish Belief Sacrificial Blot are not necessary to serve a compelling governmental interest as RLUIPA requires and tends to exhibit hostility, not neutrality, towards Theodish Belief pursuant to RLUIPA and Bowen v. Roy, 476 U.S. 693, 708 (1986). "[C]ourts have generally found that to deny prison inmates the provision of fact that satisfies the dictates of their faith does unconstitutionally burden their free exercise rights." (citations omitted) McEachin v. McGuinnis, 357 F.3d 197, 203, N.7 (2nd Cir. 2004); Love v. Reed, 216 F.3d 682, 689-90 (8th Cir. 2000)(Prison inmates are entitled under the First Amendment reasonable accommodation of their religious dietary needs).

Defendants have imposed a substantial burden on Plaintiffs' religious exercise by not permitting purchase, utilization and consumption of "organic foodstuffs" and "free range meat products" for Theodish Belief Sacrificial Blot as set forth above; in Plaintiffs' Amended Complaint with annexed exhibits; and Plaintiffs' right to participate "in the sacramental use of bread ["organic foodstuffs" and "free range meat products"] and wine." Cutter, *supra*, 544 U.S., at 720.

Devotional Items

Defendants' argument uses a illegally high standard of "common community practice" for the devotional items that were approved and to deny Plaintiffs' request for the Stanbaed. In "Foodstuffs and Mead" supra, Plaintiffs argued that RLUIPA and free exercise guarantees require that the relevant inquiry is whether the religious belief is "sincerely held" and whether it is ecclesiastical law and the guarantees are not limited to beliefs which are shared by all the members of a religious sect. See Thomas, supra, 450 U.S., at 715-16; Love, supra, 216 F.3d, at 688, N.9; Cutter, supra, 544 U.S., at 725; and 42 U.S.C. §2000cc-5(7)(A).

Furthermore, Defendants' brief at 18, misquotes Garman Lord to indicate devotional items are not needed for true Theodish worship to occur and true Theodish worship "is a matter of the heart and soul, and not of the hardware" in order to make it a matter of Theodish theology. In the paragraph, Garman Lord mentions both Theodish clergyman and Jesus in connection and states in the sentence in reference to Jesus "that real religion is always a matter of the heart and soul, not of the hardware" thus, Garman Lord may be referring only to Jesus or to all "real religion(s)".

The Stanbaed is a legal method for bringing personal spiritual purity to the holy stead, shamanic practice, etc. in Plaintiffs' sincerely held Theodish Belief orthodoxy and orthopraxy (Plaintiffs Ex. #1) and the Native American Sweat Lodge and Stanbaed serves

the same general purposes (Amended Complaint P. 27, ¶47).

Defendants authorize these religious rituals: Islam-Wudu, Protestant-Baptism, Catholic-Baptism, confession, hand bathing with wine/water, Judaism and House of Yahweh-bathing (baptism); and Native American-sweat lodge but refuse to authorize the Stanbaed religious ritual request of Plaintiffs. The better treatment of Islam, Protestant, Catholic, Judaism, House of Yehweh and Native American faiths by the Defendants authorization of their respective religious rituals for purification/cleansing, etc. shows the restriction/denial of Stanbaed does not serve a compelling governmental interest as RLUIPA requires and tends to exhibit hostility, not neutrality, towards Theodish Belief religious exercise under RLUIPA and Bowen v. Roy, 476 U.S., at 708.

The Fire Twirl was denied because all religious fires are currently started by a lighter checked out from the appropriate security personel.(Defendants' Ex. #11, p. 3). Defendants' refused to consider and reject the efficency of less restrictive measures. Gartell v. Ashcroft, 191 F.Supp.2d 23, 39-40 (D.DC 2002)(The government cannot meet its burden to prove least restrictive means unless it netually considered and rejected the efficacy of less restrictive measures before adopting the challenged practice)(citations omitted); Sample v. Lappin, 424 F.Supp.2d 187, 195 (D.DC.2006)(same).

Eormensyl is fundamental to Plaintiffs practice of Theodish Belief because without Eormensyl prayer, offerings, travel to

seek wisdom etc., or worship is rendered impossible. (Amended Complaint pp. 30-31, ¶54). The Eormensyl was denied "due to obvious security concerns, it is recommended that this item be denied with the current dimensions" (Defendants' Ex. #11, p. 2). Defendants failed to actually consider and reject the efficacy of a different dimensions for Eormensyl before adopting the denial. Gartell v. Ashcroft, 191 F.Supp.2d, at 39-40; Sample v. Lappin, 424 F.Supp.2d, at 195. Defendants cannot merely brandish the words "security" and "safety" and expect their actions will automatically be insulated from scrutiny. Buchanan v. Burbury, 2006 WL 2010773 (N.D. Ohio 7/17/06) at 4; Campos v. Coughlin, 854 F.Supp. 194, 207 (S.D.N.Y. 1994).

Defendants' denial of the Stanbaed, Fire Twirl, and Eormensyl imposes a substantial burden on Plaintiffs religious exercise. Administrative Regulation 208.01

Administrative Regulation 208.01 (A.R. 208.01) set an illegally high standard in which Defendants require Plaintiffs to show that religious items requested are "community standard practice . . . .", "Theological tenets of the faith group require . . . .", "actual tenet requirements of the faith and local community practice", "practices of his/her faith deemed essential by the faith's judicatory," etc. (Amended Complaint p. 9-10, ¶13; Defendants' Exhibits #1, 30, 31, 32, 33, 34, 35 and 36). In fact, Defendants use similar mandatory tenets to deny Plaintiffs' religious requests: Brief at p. 16: "then their ability to engage

in joint worship is a part of the theology of Theodish Belief", "Because joint worship with the Asatru is part of the Theodish Belief"; Brief at 16-17: "organic foodstuffs and free range meat products are not essential to the practice of Theodism" (emphasis supplied); brief at 17-18: "all the devotional items that the Plaintiffs requested that are common community practice", "use of a "Stanbaed" is not common practice" (emphasis supplied).

A.R. 208.01 imposes a substantial burden on the Plaintiffs' religious exercise in that Plaintiffs have to prove their requests are necessary, essential, tenet of, community wide practice, etc. of Theodish Belief orthopraxy and orthodoxy.

#### Room Restriction

Plaintiffs have suffered and are facing the threat of an "injury-in-fact" by the criminal sentences imposed upon each Plaintiff by their respective sentencing courts. Sandin v. Conner, 515 U.S. 472, 485 (1995) held "Discipline by prison officials in response to a wide range of misconduct falls within the expected perimeters of the sentence imposed by a court of law."

Room restriction imposes a substantial burden on Plaintiffs' religious exercise of learning (Amended Complaint p. 34, ¶63).

#### Coerced Inculcation of Religious Messages

Plaintiffs were provided with a weekly class time for Theodish Belief practitioners in the Chapel on or about March 24, 2004. Plaintiffs filed grievances addressing the construction of the additional rooms and plan to move religious groups to the



Chapel (Plaintiffs' Ex. #2). For about three years, Theodish Belief practitioners were the only religious activity in the Chapel. Plaintiffs filed a grievance raising that religious education classes could be relocated to the prison school which is closed on week nights and during the day and night on weekends and holidays (Plaintiffs' Ex. #3).

Defendant Marsh schedules the faith groups which subject Plaintiffs to coerced inculcation of religious messages (Plaintiffs' Ex. #3). The structure and acoustics of the Chapel allow sounds to reverberate throughout the building (Amended Complaint pp. 35-36, ¶68-70). Defendants speciously suggest Plaintiffs have the option to move their class to meet earlier would punish them, i.e., Plaintiffs Personal Plan requires them to work so no one would be able to participate in our religious exercise and it would relieve Defendants of eliminating the coerced inculcation of religious messages.

#### Early Line Status

Plaintiffs have to choose between their religious exercise and the government benefit of eating when they are denied early line status for religious exercises (Amended Complaint p. 34, ¶63-64; Plaintiffs' Exhibits #4, 5 and 6).

Early line status exemptions are granted to inmates for sports activity, dog handlers, Plaintiff Rust, etc., however, deny the same exemption for Plaintiff Conn (Amended Complaint p. 34, ¶63-64; Plaintiffs' Exhibits #4, 5, and 6). The better

treatment of granting early line status to inmates for sports activity, dog handlers, etc. but refusing to grant the same early line exemption for religious activity shows the restriction/denial of early line status for Theodish education/worship does not serve a compelling governmental interest as RLUIPA requires and tends to exhibit hostility, not neutrality, towards Theodish Belief religious exercise under RLUIPA and Bowen v. Roy, 476 U.S., at 708.

#### Possession of Religious Materials

The gods demand that Theodsmen cultivate Wisdom as critical to our process of "Worthing and Becoming" (Amended Complaint p. 34, ¶63). Plaintiffs submitted a "Proposal" to obtain an exemption to allow Theodish Belief inmates to retain personal religious materials beyond four cubic feet of space, which was denied (Amended Complaint p. 39, ¶77-79).

Exemptions have been granted to inmates to store personal property beyond the four cubic feet allotment (Amended Complaint pp. 39-40, ¶80; Amended Complaint Ex. #2). The granting of exemptions for legal materials, electronics, state issue items, musical instruments, and "Plan A" Hobby Card inmates but refusing to grant the same exemption for Theodish religious materials shows the restriction/denial of Theodish Belief religious materials does not serve a compelling governmental interest as RLUIPA requires and tends to exhibit hostility, not neutrality, towards Theodish Belief religious exercise under RLUIPA and Bowen v. Roy,

476 U.S., at 708.

B. The denial of the various requests are not in furtherance of compelling state interests and the denials are not the least restrictive means available in furthering those compelling interests.

Joint Worship Time and Space for Asatru and Theodism

Defendants assert that if Theodish practitioners were given separate designated outdoor worship areas, the requests of the other recognized faith groups would have to be accommodated. Defendants' slippery slope concerns "argument echoes the classic rejoinder of bureaucrats throughout history: If I make an exception for you, I'll have to make one for everybody, so no exceptions. But RFRA [RLUIPA] operates by mandating consideration, under the compelling interest test, of exceptions to [']Rule[s] of general applicability.['] (cite omitted) Congress determined that the legislated test [']is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.[']" Gonzales v. O Centro Espirita Beneficente Uniad Do Vegetal, 126 S.Ct. 1211, 1223 (2006). The Gonzales Court found the aforesaid determination finds support in Sherbert v. Verner, 374 U.S. 398, 407 (1963) and in "Cutter v. Wilkinson, 544 U.S. 709, 125 S.Ct. 2113, 161 L.Ed.2d 1020 (2005), we held that the Religious Land Use and Institutionalized Persons Act of 2000, which allows federal and state prisoners to seek religious accommodations pursuant to the same standard as

set forth in RFRA, does not violate the Establishment Clause. We had [']no cause to believe['] that the compelling interest test [']would not be applied in an appropriately balanced way['] to specific claims for exemptions as they arose. *Id.*, at 2122-23." *Id.* Gonzales, 126 S.Ct., at 1223-24.

Defendants assert scheduling joint worship time and space for Asatru and Theodish practitioners is furtherance of several compelling governmental interests such as safety and security, budget restrictions, and staffing limitations. RLUIPA does not "elevate accommodation of religious observances over an institution's need to maintain order and safety." Cutter, *supra*, at 722. "Lawmakers supporting RLUIPA were mindful of the urgency of discipline, order, safety, and security in penal institutions" and "[t]hey anticipated that courts would apply the Act's standard with [']due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline, consistent with consideration of costs and limited resources." *Id.* at 723 (quoting the Joint Statement at 57775). But Defendants "cannot merely brandish the words [']security['] and [']safety['] and expect that their actions will automatically be deemed constitutionally permissible conduct", and thus, insulated from scrutiny. Campos v. Coughlin, 854 F.Supp. 194, 207 (S.D.N.Y. 1994); see also Werner v. McCotter, 49 F.3d 1476, 1480 (9th Cir. 1995)("[']The state must do more than simply offer conclusory

statements that a limitation on religious freedom is required for security, health or safety to establish that its interests are [compelling].['']"(quoting Weaver v. Jago, 675 F.2d 116, 119 (6th Cir. 1982)); Jolly v. Coughlin, 76 F.3d 468, 479 (2nd Cir. 1996)("['']Policies grounded on mere speculation, exaggerated fears, or post-hoc rationalizations will not suffice to met the Act's requirements[''] even in the prison context.")(citations omitted).

Buchanan v. Burbury, 2006 WL 2010773 (N.D. Ohio 7/17/06) at 7, found, "As found by the Supreme Court in Cutter, safety and security, indisputably compelling state interests, outweigh an inmate's claim to a religious accommodation. However, this is not a case in which the Plaintiff seeks an exception to a generally applicable rule that goes to the safety and security of the prison, such as a proscription on long hair. Rather, Plaintiff seeks to engage in religious exercise that other inmates already enjoy." The Plaintiffs in this action want to engage in religious exercise that other NDCS inmates already enjoy.

Defendants assert NSP does not have the staffing required to properly supervise inmate activities within multiple outside worship areas. The NSP has on Asatru worship area and one Native American sweatlodge worship area. Both worship areas are located within full observation by NSP security staff positioned in Towers #5 and 6, as well as a security camera. Also, NSP security staff positioned in Towers #7 and 10 can see portions of

both worship areas. Furthermore, NSP does not assign a correctional officer to be present, at ground level, to monitor activities when either outside worship area is occupied (Plaintiffs' Exhibits #7 and 8).

Defendants assert that "Garman Lord himself acknowledges that separate space for Theodish worship may not be possible in a correctional setting. (Ex.#26)" That a careful review of Ex. #26 will show that Garman Lord only acknowledges that full Theodish practice, which calls for edged weapons, young maiden bedecked with flowers, wain (wagon) drawn by cows, cattle pasturage or housing for spring maidens or sacred wains, would not be allowed in a prison facility.

Defendants assert if NSP showed favoritism to one religious group security of the facility would be harmed because other faith groups may protest. Defendants appear to argue the third-factor "rational relationship" test of Turner v. Safley, 482 U.S. 78 (1987) which is not applicable since RLUIPA is the law.

Defendants assert NSP does not have sufficient land to accommodate all of the potential requests. Plaintiff Rust identified seven (7) land sites which could be divided into 13-15 smaller land sites (Defendants' Ex. #20, p.5-6).

Defendants assert limited or lack of funds to accommodate separate worship beliefs or religious sects. RLUIPA does not require a state to pay for an inmate's devotional accessories. Cutter v. Wilkinson, 544 U.S., at 720. Furthermore, Plaintiffs



are willing to pay for our devotional accessories. (Plaintiffs' Ex. # 8 ).

#### Foodstuffs and Ritual Mead

Defendants assert Plaintiffs want to conduct animal sacrifice. Defendants Brief at 16, states Plaintiffs submitted "requests for [']organic foodstuffs['] and [']free range meat product['] from a health food store for sacrifice". Defendants "cannot merely brandish the words [']security['] and [']safety['] and expect that their actions will automatically be deemed constitutionally permissible conduct", and thus, insulated from scrutiny. Campos, supra, at 207; see also Werner, supra, at 1480; Jolly, supra, at 479.

#### Devotional Items

Defendants assert that providing Plaintiffs with "Nine kinds of Sacred Wood" and a "Fire Twirl" would cause serious safety and security concerns to arise if inmates were provided access to blunt instruments or burning pieces of wood. Defendants cannot merely brandish the words "security" and "safety" and expect that their actions will automatically be insulated from scrutiny. Campos, supra, at 207; see also Werner, supra, at 1480; Jolly, supra, at 479. Defendants have authorized access to blunt instruments or burning pieces of wood to other religious faith groups as set forth in Attachment E of A.R. 208.01 (Defendants' Exhibits #1, 30, 31, 32, 33, 34, 35, and 36). Why is there serious safety and security concerns when Plaintiffs request wood

which Defendants permit the Native American and Asatru faith groups to burn in their respective rituals?

The failure to consider the least restrictive measure on the "Fire Twirl" was addressed by Plaintiffs, *supra*, at 18. Plaintiffs addressed the alleged insufficient land issue *supra*, at 26. Plaintiffs addressed the Stanbæd at 17-18, and the Eormensyl, *supra*, at 18-19.

Defendants have failed to set forth any compelling governmental interest or the least restrictive means for the denial of each of the devotional items listed in Plaintiffs Step 2 Grievance (Amended Complaint Ex. #10 and Defendants' Ex. #21, pp. 6-7). Defendants refused to consider and reject the efficiency of less restrictive measures. Gartell v. Ashcroft, 191 F.Supp.2d at 39-40; Sample v. Lappin, 424 F.Supp.2d, at 195.

#### Coerced Inculcation of Religious Messages

Defendants assert that Plaintiffs are referring to the "eight rooms located in the basement" of the Religious Center. Plaintiffs have referred to both the eight rooms located in the basement of the Religious Center and the prison school which is closed on weeknights and during the day and night on the weekends and holidays.

Defendants could move all the week-night night, weekend and holiday day/night religious education/study classes and worship services (except the Sunday Christian worship) along with the assigned Correctional Officer to the prison school. The prison school has an estimated 5-7 enclosed classrooms where the

Religious Center has only 3 areas for religious meetings. The prison school's enclosed classrooms have windows which allows the assigned Correctional Officer to monitor the religious activities. The utilization of the empty school building during the week-night, weekend and holiday day/night would cost the Defendants little or no funds.

Defendants have refused to consider and reject the efficiency of the less restrictive measure of utilization of the pre-existing empty school building. See Gartell v. Ashcroft, 191 F.Supp.2d, at 39-40; Sample v. Lappin, 424 F.Supp.2d, at 195. In fact, Defendants have failed to make any reference in their Brief that Plaintiffs have raised the issue of using the empty school building in their Complaint and Grievances (Amended Complaint pp. 35-36, ¶68-70 and Plaintiffs' Ex. #3).

Possession of Personal Religious Materials

Defendants assert "DCS cannot demonstrate favoritism by granting special privileges to the Theodish inmates. It would be a safety risk to provide special treatment to Theodish inmates."

Defendants show favoritism when they grant the exemption to allow inmates to retain legal materials beyond the four cubic feet of personal property allotment. Pursuant to the Defendants' argument it would be a safety risk to provide special treatment to only the low percentage of inmates who have legal materials.

Defendants show favoritism when they grant the exemption to allow only inmates with "Plan A" Hobby Cards to retain personal hobby materials beyond the four cubic feet personal property allotment. Pursuant to Defendants' argument it would be a safety risk to provide special treatment to the low number of inmates who are allowed to purchase "Plan A" Hobby Cards and go to the Hobby Association's Hobby Center while refusing to extend a similar exemption to inmates with "Plan B" Hobby Cards.

Defendants show favoritism when they grant the exemption to exempt t.v. sets, cassette/compact disc players walkman-type units and musical instruments from the four cubic feet personal property allotment. Pursuant to Defendants' argument it would be a safety risk to provide special treatment to only those inmates who can afford to purchase t.v. sets, cassette/compact disc players, radios, walkman-type units, and musical instruments.

Defendants failed to apply the compelling interest test or

consider the least restrictive means when they reviewed Plaintiffs' "religious exercise" request to retain personal religious materials beyond the four cubic feet of personal property allotment. Cutter,supra, at 717 ; Gartell,supra, at 39-40; Sample,supra, at 195.

Furthermore, Defendants cannot brandish the words "security" and "safety" and expect that their actions will automatically be insulated from scrutiny. Campos,supra, at 207; see also, Werner,supra, at 1480; Jolly,supra, at 479.

In conclusion, the Defendants have failed to apply RLUIPA to Plaintiffs' "religious exercise" and have imposed a substantial burden on the Plaintiffs' "religious exercise". An evidentiary hearing and/or trial will flesh out the factual context.

Plaintiffs Claims Against the Defendants in Their Official Capacities is not Barred by the Doctrine of Sovereign Immunity

RLUIPA states in relevant part, "A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government." 42 U.S.C. §2000cc-2(a). "Government" is defined as "(i) a State, county, municipality, or other governmental entity created under the authority of a State; (ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and (iii) any other person acting under color of State law." 42 U.S.C. §2000cc-5.

The Civil Rights Remedies Equalization Act of 1986, 42 U.S.C.

§2000d-7, contains the required unequivocal waiver of state sovereign immunity. The statute provides in relevant part:

"A State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal assistance."

42 U.S.C. §2000d-7(a)(1).

RLUIPA was enacted, in part, to prohibit discrimination by prison officials against prisoners who desire to exercise their religious beliefs. The Seventh Circuit observed that: "RLUIPA follows in the footsteps of a longstanding tradition of federal legislation that seeks to eradicate discrimination and is [']designed to guard against unfair bias and infringement on fundamental freedoms.[']" Charles v. Verhagen, 348 F.3d 601, 607 (7th Cir. 2003)(quoting Mayweathers v. Newland, 314 F.3d 1062, 1066-67 (9th Cir. 2003)). The right to exercise one's religion is clearly a fundamental freedom and Congress found that prison officials were discriminating against prisoners who sought to exercise their religious beliefs. Accordingly, the Court finds that RLUIPA is a "Federal statute prohibiting discrimination by recipients of Federal financial assistance", and the Defendants



sovereign immunity for monetary damages on official claims under RLUIPA is waived under the Equalization Act by the acceptance of federal prison funding. 42 U.S.C. §2000d-7(a)(1). Sisney v. Reisch, 533 F.Supp.2d 952, 971-72 (D.S.D. 2008).

CONCLUSION

For the reasons stated above, the Plaintiffs respectfully request that the Court deny the Motion for Summary Judgment as there are genuine issues of material fact present in the case at bar.

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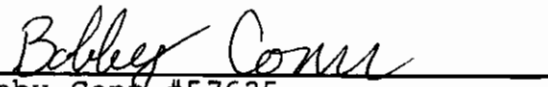
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Plaintiffs' Brief in Opposition of Defendants' Motion for Summary Judgment was sent to the Defendants, by and through their attorney of record, via U.S. Mail Services, first class mail, postage pre-paid, on this 8<sup>th</sup> day of July, 2009.

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Required elements/features of the Sacred Space  
For Theodish Belief inmates

Forrnensýl

Forrnensýl is the cosmic axis that pierces both earth and sky that links these three (3) distinct but interpenetrating Realms: a lower (under) world existing beneath the surface of the earth (that 3 Worlds, the Well of Wyrd, and the Wyrdæ are located), the upper World existing above the sky (that 3 Worlds are located there), and the middle World existing on the physical where we live. Forrnensýl expresses the absolute reality in its aspect of norm, of the fixed point (focal point of Theodism), at the center of the cosmos upholding and binding the Worlds together; it is the site where communication (prayers and offerings) with the gods, ancestors, and other wights can only be effected near it, or by means of it; it is the break-through in plane for the shamanic technique of journeying from one cosmic region/realms to another - earth to sky or earth to the lower world - to seek wisdom and/or advice from the gods, ancestors, and other wights; and the actions that fall into Wyrd's Well via Forrnensýl, which the Wyrdæ convert for the proper results (an increase or decrease in mægen), then

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TRANSMIT MÆZEN back to the source of the action via Eormensýl. Both the Eormensýl and the Wéofod (altar) need to be placed on the sites power point. Without the permanently erected Eormensýl, which pierces both sky and earth, imposes a substantial burden on the central focal point in Thiodism beliefs/practices as set forth herein and the Proposal's sections: MÆZEN, pp. 50-51; Eormensýl, pp. 69-72; Well of Wyrd and the Wyrdæ, pp. 72-75; and various relevant paragraphs in Sacred Space, pp. 52-54 & 62.

## STANBÆÐ

The ingestion of herbs or the stanbæð (sweatlodge type structure) are the structural components for creating the shamanic path to a state of altered consciousness and visions (and to consecrate those who are seeking power and knowledge on the spiritual plane) to seek wisdom, advice, etc. from the gods, ancestors, and other wights. See generally The Way of the Shaman by Michael Harner, Shamanism and Old English Poetry by Stephen O. Gloag, Shamanism Archaic Techniques of Ecstasy by Mircea Eliade. The aforementioned ~~herbs~~ herbs can be substances declared illegal by State and Federal laws or other herbs (having mildly psychoactive effects) which can

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be legally purchased wherever herbs are sold. The NDCS security concerns regarding legal herbs, e.g., any mild psychoactive effects, possibility of adverse reactions with prescribed medications or health condition, etc., will prevent Theodish inmates access to and use of said legal herbs. However, pursuant to *O'lowe v Shabazz*, 107 S.Ct. 2400 standard: "Alternative means of exercising the right remain open to prison inmates" the "STANDBE" is the alternative means to the legal herbs. GARMAN LORD, in the 3rd paragraph on page 1 of his January 6, 2004 letter to Randy Downer, indicates the STANDBE is the alternative means to bring spiritual purity into the holy (that is of special religious importance in Theodism) in a regulated punitive environment of a prison.

The STANDBE has to be located in close proximity to Eormensyl to allow Theodish shamanic practitioners to fare forth to ascend/descend the Sacred Eormensyl for acquiring wisdom, advice, etc. from the gods, ancestors, and other wights in the lower or upper worlds.

See the Proposal's sections: STANDBE, pp. 63-69; Mysticism, at p. 44 indicating that shamanism (dreecraft) is very much part Theodish Belief spiritual nourishment



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Wéofod (Altar) constructed of Heaped Stones

The heaped stone ALTAR has been an integral sacred element of Germanic heathenry see the Proposal's section: Wéofod (Altar) Constructed of Heaped Stones, p. 128. That a large stone altar was never used by ancient Germanic heathens.

Hazel Wood Stakes AND Twine

GERMAN LORD, in the 2nd full paragraph on page 2 of his JANUARY 6, 2004 letter to RANDY DONNER, states the Hazel Wood Stakes AND Twine are essential to making whatever plot of ground "holy ground" AND wards it from ~~casual~~ casual profanation. See Proposal's sections: Hazel Wood Stakes AND Twine, pp 127-128 AND "Sacred Space, AT p. 52 discuss use of Hazel Wood Stakes AND Twine to make site SACRED

Please be advised that A NATURAL color YARN made from A NATURAL fiber is AN acceptable substitute for the Twine to meet the Department's security concerns

Blowing Horn with a Trombone Mouthpiece

The blowing horn is an essential element



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for a valid Thēodish Faining. The blowing horn is a necessary item to consecrate the land. See Proposal's sections: Blowing Horn with a Trombone Mouthpiece, pp. 130-131; Worship/Sacrifice pp. 110-115 (provides the essential "formulaic elements" in the "Thēodish Faining R.Tol; An Outline")

### Wood Wand (Sigeyard)

Sigeyard is an essential "formulaic element" for warding the land. See Proposal's sections: Wood Wand (Sigeyard), p. 131; Worship Sacrifice, pp. 110-115. Also, I did not include the fact that Wicca has a community wand since I did not know this to include in Proposal

### Réels and Réelfæt with charcoal

Réels and Réelfæt with charcoal is a necessary "formulaic element" for a valid Thēodish Faining and to ward/consecrate the land. <sup>(and for sacrifices)</sup> See Proposal's sections: "Réels and Réelfæt with charcoal", pp. 103-104; Worship Sacrifice, pp. 110-115

### Sacred Fire and Fire wood

For Sacrificial Fire and heat stambæd stones

long Benches and Table  
Will be utilized for Sacrificial Feasts

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## Ribbons

Used to weave good luck (mæzed) into the land, etc. See Proposal's sections: Ribbons, p. 142; Formensy'l, pp. 69-72

A Rough outline of the possible layout of the Thedish Weohsteall

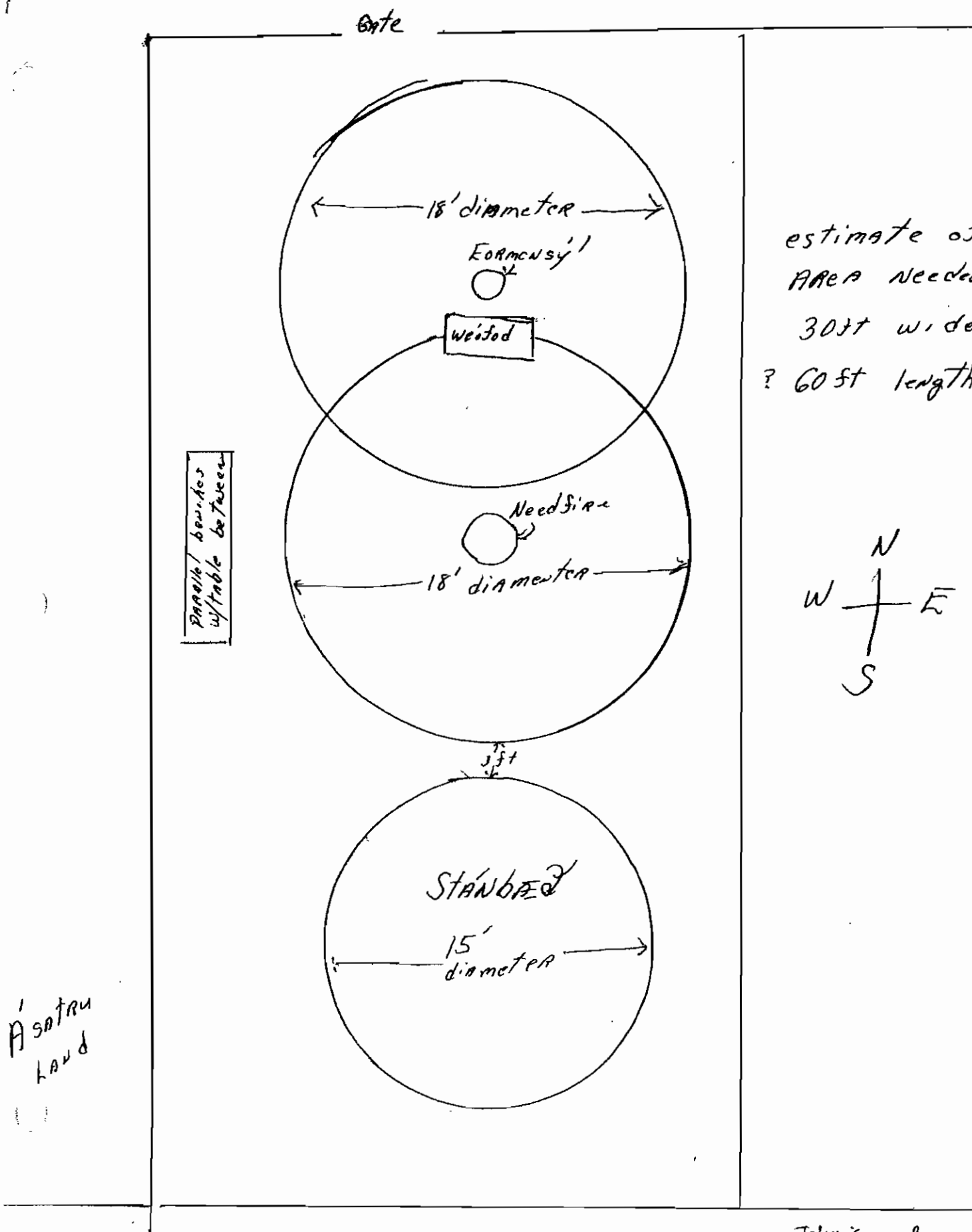
The location of the Weofod (Altar) and the Formentsyl is tentative until the exact location of the power spot is located by the shaman. The location of the power spot will affect the placement of Weofod, Formentsyl, Needfire and Stambred.

18 feet is necessary around the Formentsyl and the Sacred Firepit. The 18ft. is for the use of Ribbons on Formentsyl to weave good luck, i.e., mæzen into the site. The 18ft around the Firepit is based on the ancient warding symbol of the "Helm of Awe". The Helm of Awe is shaped somewhat like a snowflake and participants will be positioned on each of the points of the Helm of Awe. Approximately 4 feet will be necessary around the entire perimeter to allow for placement of the Sacred "History Stakes and Twine (yarn)" and for the required processional to ward the entire site for the faining. Also, there will be a bull skull top with the horns attached (about a 6 foot wide spread) mounted on the top of the Formentsyl in pursuant to the ancient religious belief. The Weofod will be about

4 foot long and 2 foot wide (depends on the size of the granite slab being donated) and the heaped stones will make the WeöSod about 3 foot high. The STANBÆD is 15 foot diameter and should seat up to 20 people sitting cross-legged.

We want to point out the 4 foot perimeter mentioned includes the area between the perimeter chain line security fence (located on all 4 sides) and all the items located on the WeöSod (including the 2 parallel benches & table)

Both the NeedSire Siæpæt and the STANBÆD pit to hold the hot rocks are approximately 2 feet in diameter



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## *The Sacred Plants of our Ancestors*

Christian Rätsch

Golden Apples grow in her garden;  
 she alone knows how to tend the apples!  
 By eating the fruit, her kindred are endowed  
     with eternal, never-aging youth;  
 yet sick and pale their blossom falls,  
 old and weak they dwindle away,  
     and must do without Freia.  
 —Richard Wagner, *Rheingold*<sup>1</sup>

The religious experiences of our Germanic-Celtic ancestors were significantly influenced by the considered and responsible use of consciousness-expanding plants. Because these plants made contact with the goddesses, gods, and divinatory beings possible, and revealed the secrets of the universe, they were held in esteem and worshiped as sacred objects. The plants bestowed the people who ingested them with visions of a joyful world in which everything was right. The brutal Christianization of Europe robbed Europeans of their sacred knowledge of how to use these plants in meaningful ways. The plants were demonized by the Church and mystical experience was forbidden (Cf. Müller-Ebeling 1991). Today, European culture still suffers from the gaping wound that was ripped open by Christianization. Modern man is uprooted, culturally divided, and lost in a demystified universe that seems meaningless. He has forgotten the beneficial use of sacred plants and suffers from the uncontrolled abuse of alcohol, tobacco, barbiturates, and other substances. Perhaps the time has come to honor our ancestors and to once more place our trust in the protection of sacred plants.

### **The Way the Plants are Used Determines Their Effect**

The earth provides humans with everything they need. It offers them plants that nourish, heal, stimulate, or intoxicate. Certain plants can be used raw, others must be prepared. Often the preparation of a plant is complicated and demands knowledge, experience, and technology. Many plants are suited only as food when they are prepared by cooking or juicing. Some commonly eaten



plants can be fatally toxic if prepared in the wrong manner. Someone who eats raw potatoes, for example, will be ingesting a very dangerous poison. But those who know how to prepare potatoes will not poison themselves.

This holds even truer with medicinal plants than with plants used for food. In the hands of an inexperienced person, foxglove (*Digitalis purpurea*) is a terrible, deadly poison, but in the hands of experienced doctors and herbalists, digitalis preparations have already saved the lives of thousands of people suffering from heart problems. Nearly every medicinal plant can be medicinal or poisonous—sometimes fatally so—depending on the dosage. To be able to use medicinal plants in a wise and truly healing way demands superior expertise concerning application, dosage, and the spectrum of effects. If medicinal plants are used incorrectly, they can do more harm than good (Storl 1986). The same is true for intoxicating or psychedelic plants that expand consciousness. To use these naturally intoxicating plants in a wise and beneficial manner demands the most precise knowledge of preparation and dosage, as well as thorough experience so that the desired effect occurs at the right place and at the right time (Zinberg 1984).

Evidence for the wise use of intoxicating and psychedelic plants has been established as early as the Neolithic period. The disastrous abuse of plant drugs is a manifestation of recent centuries. The sacred or ritual use of such plant drugs has existed in nearly all cultures throughout the history of the human race (McKenna 1992). Their inherent powers, which expanded consciousness and triggered mystical experiences, caused them to be seen as “plants of the gods,” “plant teachers,” and “magical plants” (Rätsch 1988; Schultes and Hofmann 1979).

In the *Rig Veda*, the most ancient written source of the religion of the Aryans and Indo-European tribes who settled in the Indus Valley, hundreds of songs are sung about the mystical and wondrous effects of the sacrificial drink soma. The soma ritual was quite simple, but all the more potent as a result. It was said that under the guidance of the divine soma drink the creation of the universe could be relived in a mystical way and one could understand oneself as a part of the whole. For this the people gathered together in a circle, lit an altar fire, and sacrificed soma to the gods by ingesting the drink. The body was considered to be the Vedic temple, which was filled and illuminated by the gods incarnated in the draught. In addition to grain and milk, the beer-like drink

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*Sacred Plants of Our Ancestors*

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contained the juice of the soma plants (which still have not yet been definitively botanically identified). In post-Vedic times, the soma drink was brewed with hashish or other *Cannabis* products. It was considered a drink of inspiration. The intoxicated artists referred to in the Vedic hymns attest to the mystical experience of cosmic consciousness (Wasson 1968).

The soma drink of the Aryans corresponds to many intoxicating sacrificial drinks of the Indo-European peoples (Huber 1929; Wohlberg 1990). The Zoroastrian Persians (the ancient Parsi) knew the drink *haoma*, which was brewed with ephedra (*Ephedra* sp.), rue (*Peganum harmala*), and pomegranate (*Punicum granatum*) (Flattery and Schwartz 1989). The ancient Greeks drank ambrosia, nectar, and *kykeon*—the initiation drink of the Eleusinian mysteries (Wasson et al. 1984). The Thracians became intoxicated on oat beer and wine in which mushrooms had been soaked. The Celts worshiped a magical cauldron that contained the mead of poetry (Maurizio 1933). All of these heathen sacrificial drinks were brewed with the addition of plant drugs (hemp, mushrooms, opium, nightshade plants, etc.), the uses of which are currently subject to laws and regulations. Why were the intoxicating plants of our Indo-European ancestors sacred, and why are they demonized and illegal today? Apparently people back then knew better than they do now how to handle—that is, how to beneficially make use of—consciousness-expanding drugs.

Like many archaic peoples and tribal cultures, our Celtic-Germanic ancestors recognized, cultivated, and integrated the basic human need for intoxication and mystical experience into their lives in a meaningful way (Siegel 1989; Weil 1986). They knew about the divine origins of intoxicating plants and drinks: "Mead itself, which dropped down like heavenly dew from the world tree, was, for the Germanic peoples, the symbol of the drink of the gods" (Delorez 1963: 23).

Our ancestors recognized the cosmic significance of this means of intoxication. It was to open the human being to the fairy world, to raise the rainbow bridge to Valhalla, the fortress of the gods, and offer them sanctuary in a clear, magical, and mystical universe. For this reason the secrets of the sacred plants were guarded by wise women, seeresses, prophets, magicians, priests, and Druids. Sacred drinks were not drunk like the nightly beer in front of the television, but rather as part of communal rituals on special occasions in an extraordinary environment, in order to

IN THE FOLKLORE OF NORTHERN  
GERMANY, THE BELIEF AROSE THAT  
WITCHES DRANK BEER AT  
THEIR GATHERINGS.  
("WITCHES' SUPPER," WOODCUT  
BY ULRICH MOLITORIS, 1489)



glimpse into the beyond—to see the gods (Rätsch 1990).

During the libational ceremonies of the Germanic peoples, the sacred beverage (mead or beer) that had been brewed specifically for the festival was passed around to the circle of participants in large drinking horns decorated with mythical motifs. The priest or chieftain took the horn and drank to the gods, offered some of the liquid to the earth, and sprinkled a few drops to the heavens. He thanked Wotan [Odin], the god of ecstasy and the lord of magical drinks. He called to the ancestors and the heroes who founded the culture of the humans, and wished his tribe peace, well being, and health. Then he passed the horn along. The next round he toasted again to the gods, to friends, or to special ancestors, and passed the horn again, further and further around the circle, until it was empty. As soon as it was, a refilled horn was brought, passed around the circle, and drained—until all the participants in the circle were communally and concurrently intoxicated and the gods descended among the humans (Gaeßner 1941).

Sacred plants were not only used to flavor the sacrificial drink; they were also used in divination and rune oracles. In late Antiquity the figure of the Germanic seeress (called in Old Norse a *seiðkona* or *völva*), was already known for her wondrous abilities throughout Europe and beyond its borders (one was even active in Egypt!). These seeresses—of whom Albruna and Weleda are



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BLACK HENBANE, AN INGREDIENT  
IN TRUE PILSNER.  
(ENGRAVING, NINETEENTH CENTURY)

two famous examples—fell into a prophetic trance with the help of such magical substances and shamanic techniques (Delorez). Sacred plants were used in medicine to exorcise harmful spirits, that is, to heal insanity and madness. Other plants were used to increase the fertility of humans, animals, and fields. Love potions were not reprehensible, but instead something sacred, for they could help to spur forth creation.

### Henbane and True Beer

Black henbane (*Hyoscyamus niger*) contains various tropane alkaloids that can lead to extreme changes in consciousness (euphoria, hallucination, trance, delirium). These powerful characteristics have been recognized by all peoples and thus henbane has been considered a “plant of the gods” since very early times (Heiser 1987). Today henbane—known in the German vernacular as *Prophetenkraut* (prophet’s herb), *Zauberkraut* (magic herb), or *Nifelkraut* (fog herb)—is one of the rare, and therefore protected, plants of Europe. It is more commonly found in the warmer Mediterranean-type climates of countries such as Greece, Portugal, and Spain. In Germany and Denmark it rarely ever appears anymore. It is still occasionally found in Norway. It prefers loamy, nitrogen-rich soil in remote areas, and is often

located growing near cultic sites and in the vicinity of convent ruins. Because of its scarcity, the Germanic peoples cultivated henbane in gardens (Höfler 1990). Famous henbane gardens were grown in places whose current names still attest to their former status: Pilsensee (henbane lake), in the regions of Bilsengarten (henbane garden) and Bilstein (henbane stone), and in the Czech city of Pilsen (henbane).<sup>2</sup> The pre-Indo-European natives of the Alps knew of henbane. They placed the small, strongly intoxicating henbane seeds in the urns of their deceased tribal brothers and sisters (Graichen 1988: 69). Henbane was also well known to the Celts. They called it *Belinuntia* or *Beleño*, names which indicate it was sacred to Bel, the god of the sun, oracles, and medicine. The Gaelic Celts also used the herb in the preparation of arrow poison and for the killing of the elders, which is where the German common name *Altsitzerherb* (an herb for *Altsitzer*, or those who can no longer work and are dependant upon others) comes from. At their own request, aged and frail people were sent first on a trip, and then to the beyond, with a brew of henbane (Höfler 1990).

The Germanic peoples used henbane for magical and religious rituals, medicine, and love magic. The consciousness-altering powers of the herb were so skillfully employed that, depending on what was needed, they could lead to insights, healing, or romantic yearnings. When possible, the herb was to be harvested by a naked girl who was consecrated to the magical spirit or the divine nature of the plant. Henbane stood under the dominion of the fertility god Donar/Thor (the Romans connected it with their own thunder god, Jupiter). For this reason it was used for weather magic. When the land was suffering from a drought, a stalk of henbane was dipped into a spring. The drops that clung to it were then sprinkled onto the sun-parched earth. Bishop Burchard of Worms (ca. 965–1025) described a heathen henbane weather magic ritual of the tenth century:

During a period of incessant drought the girls gathered together, stripped one of their playmates naked and searched for *belisa* (i.e., henbane). The naked girl had to pull it out with her right hand, and it was then bound to the small toe of her right foot. Afterward some of the girls, with sticks in their hands, led the naked one to the nearest stream and sprinkled her with water. Doing this was supposed to call down the desired rain. Then the girl, who had to now walk backwards like a crab, was led back to

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where they had begun. (Quoted after Bräunlein 1986: 55)

Henbane's most important religious role is in the Germanic libational offering to honor the thunder god Donar/Thor. Already in the first century C.E., the Roman historian Tacitus wrote that the Germanic peoples have always been heavy beer drinkers. They drank many different kinds of beer: lighter beer for daily enjoyment, strong beer for the ram and buck sacrifices, heavy Yule beer for the winter solstice. There was also beer for weddings, the harvest, binding ceremonies, and for friendship. The Germanic beers were all top-fermented and brewed without hops. They were brewed with barley malt, *bierbrot* (bread soaked with water, used to start the fermentation), and honey (Gaeßner 1941). In order to make the brew strong and intoxicating, marsh rosemary (*Ledum palustre*), bog myrtle (*Myrica gale*), or above all henbane was added (Maurizio 1933). The name "pilsner," currently used to denote modern hoppy beer, came from henbane, which was formerly known in German as *pilsener krut* (henbane herb). Henbane beer was a potent intoxicant, aphrodisiac, and could reveal visions of divine splendor. A beer like this would not make you tired and sleepy, as a hopped beer does. It was stimulating and inspired the imagination, inducing heavenly trips and causing the henbane fairies to introduce themselves. The "true pilsner" is the only beer that makes you thirstier, the more you drink!

### Not Only Rope Got Twisted From Hemp

Hemp (of which there are three species: *Cannabis sativa*, *Cannabis indica*, and *Cannabis ruderalis*) has been used for around 10,000 years for fiber, food (the seeds and their oil), medicine, and as an intoxicant. It is one of the oldest—perhaps *the* oldest—cultivated plants of the human race. The drugs derived from hemp (hashish, marijuana) are very mild euphorics. They stimulate the associative imagination and put the user into a euphoric state for 2–3 hours, which is characterized by aphrodisiac feelings and changes in the experience of the time-space continuum.

The most ancient archeological discovery of hemp seeds (*Cannabis sativa*) was found at a dig done at the stratum of the band ceramics culture in Eisenberg near Thuringia (Renfrew 1973: 163). Thus, the earliest evidence of hemp culture (approx-





GERMANIA, THE PERSONIFICATION OF THE GERMAN REVOLUTION  
OF 1848, HOLDS A HEMP BRANCH AND SWORD.  
(PAINTING BY PHILIPP VEIT, 1848)

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THE WHITE GARDEN POPPY.  
(ILLUSTRATION FOR "THE HERBAL"  
OF JOHN GERARD, 1633)

mately 7,500 years old) is found on the soil of present-day Germany! Hemp has been established as part of Germanic culture from before the fifth century B.C.E. It was cultivated in fields, often together with flax. Hemp was sown, tended, and harvested by women (Höfler 1990: 98). The workings of the love goddess Freya were recognized in hemp. Sowing and harvest were conducted in her honor with an erotic ritual, a *Hochzeit*—a "high time."<sup>3</sup> In the feminine flowers lay the eroticizing and love-generating power of Freya (Neményi 1988). Those who became intoxicated from them experienced the sensual joy and aphrodisiac ecstasies of the love goddess. From archeological digs it has been discovered that the Germanic and Celtic tribes were already placing female hemp flowers (marijuana) in the graves of their dead 2,500 years ago (Kessler 1985).

### **The Garden Poppy's Got It**

Most people believe that the poppy (*Papaver somniferum*) originally came from eastern Asia and that the opium produced from it was a discovery of the Chinese. Both beliefs are incorrect. Poppies were cultivated in the eastern Mediterranean region. Opium was discovered by the Minoans (on Crete) and the ancient Greeks,

and used medicinally, ritualistically, and hedonistically in many different ways. Poppies, and the knowledge of how to prepare opium (by making incisions in the immature capsules), came very early to the Celtic-Germanic regions. In the pile dwellings on Lake Constance and in Switzerland (e.g., at Robbenhausen), which date back around 4,500 years, cakes with poppy seeds as well as incised capsules have been found (Seefelder 1987).

The Germanic peoples planted poppies in poppy fields or *Magenfeldern* (stomach fields) which were considered convalescing and healing fields and were known as *Odâinsackr* (Old Norse, "field of the living"). There Odin/Wotan, the god of healing and ecstasy, practiced his greatest marvels. Dissolving all fears, stimulating the imagination, and facilitating psychic abilities, the poppy juice (=opium) also protected one from harmful spirits, blood-sucking vampires, and the mischievous Prussian gnome known as the Nickel-Kobold or Nickelruh (Höfler 1990).

In our own century, poppy juice dissolved in wine continues to be used in German folk medicine as a remedy for sleep, pain, and anxiety. Perhaps these folk-medicinal uses have their roots in a Germanic drinking tradition in which opium was added to mead.

### The Fruits of the Valkyries

The atropine-containing belladonna (*Atropa belladonna*) is called *tollkirsch* ("crazy" or "lusty cherry") in German. Because it is also known as *Wutbeere* (rage berry) in German (Hirschfeld and Linsert 1930: 157), the intoxicating, hallucinogenic plant is placed under the dominion of Odin, the "raging." The plant, which causes death in higher doses, is also connected to Odin as the god of death, and to the valkyries as the spirits of death. The beautiful and seductive valkyries were the daughters of Odin and Erda—in other words, of heaven and earth. They were the goddesses of the wind, who carried the souls of heroes who had fallen in battle, or others who had died honorably, to the divine fortress of Valhalla. Those chosen by the valkyries are then allowed to delight and intoxicate themselves with the divine mead until the end of the world, or more precisely, until the cyclical renewal of the universe. In the lower Rhine regions, belladonna is called *Walkerbaum* (valkyrie tree). It is said that everyone who eats of the berries will fall prey to the valkyries (Perger 1864: 182f).



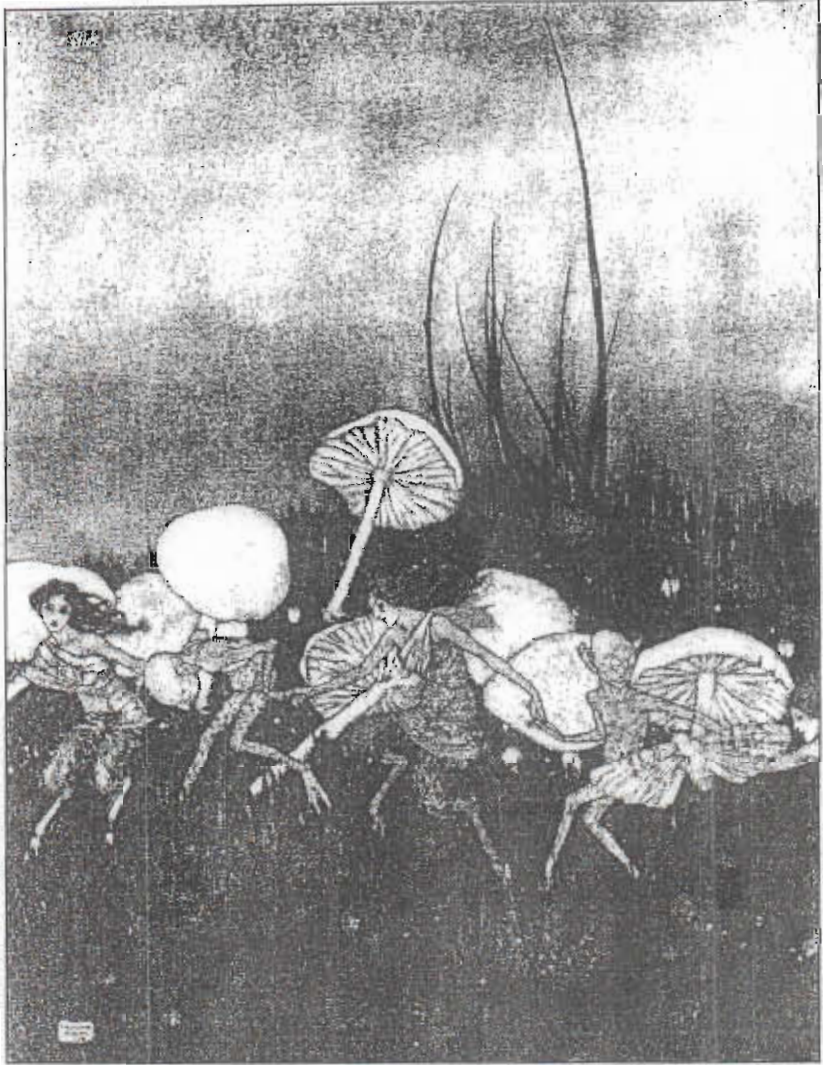
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Belladonna is said to open the gateway to Valhalla, thus to an alternative state of consciousness.

### **Fly Agaric and Other Flying Mushrooms**

In many German-speaking regions the expression "*der hat wohl Narrenschwämme gegessen*" ("he must have eaten fool's mushrooms") has been preserved into modern times.<sup>4</sup> This refers to someone who has been living out his foolishness, craziness, or insanity. The name is a folkloric memory that mushrooms exist which can put a normal person into an extraordinary state of consciousness. Many indigenous mushrooms of Europe such as liberty caps (*Psilocybe semilanceata*) contain the same active ingredients as the famous Mexican magic mushrooms (*Psilocybe mexicana*) (Hofmann et al. 1963; Jordan 1989). These native European mushrooms are just as capable as the Mexican species of revealing the splendidly colorful visions of a different, higher, or truer reality. They can answer questions, provide solutions, and fill the individual's life with meaning. But they can also reveal the depths of the individual soul in the form of demons and horrific images. Those who are afraid of themselves are easily made foolish by the mushrooms. Those who wish to further expand themselves will find true allies. We know that the Germanic peoples added mushrooms to their ritual beer or mead (Lohberg 1984: 66). It is only likely that the mushrooms would imbue the drink with the power of divine revelation—for those who drank in the circle saw the gods descend among them.

We know of one mushroom that was consecrated to Odin, the god of ecstasy: fly agaric (*Amanita muscaria*). Fly agaric has a very long shamanic tradition in northern Eurasia. Its intoxicating qualities were used culturally for shamanizing, divination, and dreams (Bauer et al. 1991; Rosenbohm 1991). According to Germanic conceptions, fly agaric arose when Odin rode through the air with his horse on a wild hunt at the time of the winter solstice. The foam from his horse's nostrils fell to the ground, fertilizing and impregnating it. After nine months—thus, at the end of August or beginning of September—the earth bore forth the bright red, phallic fly agaric (Pursey 1977: 80). These mushrooms are able to help the soul to fly, and to bestow it with the visionary gift of the divine. Odin had two ravens who were called "thought" and "memory." They fed themselves from the mushroom which since



AN AGE-OLD CONNECTION EXISTS  
BETWEEN MUSHROOMS AND OTHER REALMS.  
(ILLUSTRATION BY EDMUND DULAC FOR  
SHAKESPEARE'S "THE TEMPEST," 1906)

Antiquity has been called *Rabenbrot* (raven's bread) in German vernacular. Perhaps this mushroom can make the thoughts of our ancestors more understandable, in that it once again sets our suppressed memories free.

This brief overview should be sufficient to illustrate that the use of mind-altering drugs is not originally "culturally alien" to

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## *Sacred Plants of Our Ancestors*

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Europeans. Our ancestors have known them and used them in a meaningful way for centuries. It was only by the suppression of our native tradition that the misuse—in other words, the uprooted use—of psychoactive substances was brought about.

(Translated by Annabel Lee)

An earlier version of this article appeared under the title "Was schon den Alten heilig war" (What Was Already Sacred to the Ancients) in *Esotera* (10/91). This translation is of a subsequent version, "Die heiligen Pflanzen unserer Ahnen," which appeared in the *Festschrift* collected in honor of Albert Hofmann entitled *Das Tor zu inneren Räumen: Heilige Pflanzen und psychedelische Substanzen als Quelle spiritueller Inspiration* (Gateway to Inner Space: Sacred Plants and Psychedelic Substances as a Source of Spiritual Inspiration), edited by Christian Rätsch (Löhrbach: Edition Rauschkunde, 1996). It appears here by kind permission of the author.

## Translator's Notes:

1. In his Ring Cycle operas based on the Nibelungen stories, Wagner merged aspects of Freia (Freya) and Idunn, the latter of whom was actually the goddess in the ancient Germanic myths who tended the apples of eternal youth.

2. *Bilsenkraut* is the German common name for henbane.

3. *Hochzeit* = marriage or wedding; literally *hoch* = high, *zeit* = time.

4. *Narrenschwämme*, literally "fool's mushrooms," is one of the many German common names for fly agaric (*Amanita muscaria*).

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**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF**

**FROM:** Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
Last Name, First, Middle Initial Number Facility/Housing Unit

Page 1 of 5

**PART A: Inmate Request/Concern.**

The construction (which is complete) of the purported additional rooms for religious worship and/or religious education/study classes in the NSP Chapel imposes a substantial burden on "religious exercise" in direct contravention of the "Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)" 42 U.S.C. §2000cc thru §2000cc-5.

During the October 2006 meeting with inmate representatives of various NSP faith groups the NSP Warden Dennis Bakewell, NSP Deputy Warden Richard Cruickshank and NSP Religious Coordinator Steve Marsh apprised us that classrooms would be constructed in the NSP Chapel for religious worship and/or religious education/study.

The construction of these additional rooms in the NSP Chapel consists of: 2 separate solid walls installed on either side of the Religious Coordinators offices (one wall on the south side &

Date

2/7/07

Signature

Wolfgang Rust  
John E. Rust**PART B: Response and Reason(s) for Decision Reached.**

Mr. Marsh reports that to his knowledge as of 2/8/07 there are no religious activities that have been moved to the Chapel ( since the walls were built ) which would subject any inmate to "Religious preaching, singing, and/or witnessing" against their wishes. The option is open to move the Sabbatarian class if they would prefer to meet earlier, and are bothered by the sounds of another activity. Further improvements will be considered as concerns are raised.

Date

2/8/07

Signature

[Signature]

**NOTE:** A copy of this completed *Informal Grievance Resolution Form* must accompany any *Step 1 Institutional Grievance Form*.

**EXHIBIT**  
**#2**

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF**

FROM: Rust, Wolfgang/Rust, John E.

30118

NSP/5-A-20

Last Name, First, Middle Initial

Number

Facility/Housing Unit

Page 2 of 5

**PART A: Inmate Request/Concern.**

the other wall on the North side) extending from the floor to the lower front edge of the balcony with a open floor to ceiling walkway/doorway for the Chapel's aisles at both ends of each of these 2 separate walls. Each of these 2 separate walls constitutes the West wall of both rooms. These purported 2 rooms are not enclosed with 4 walls like a normal room is since there is only the West wall on the Chapel's interior.

The NSP Chapel's normal acoustics (without any assistance from the Chapel's public address system) allows the sound(s) of religious worship and/or religious education/study classes to circumvent the 4 open aisle walkways/doorways and/or from the other purported room. This results in faith groups in the 2 purported rooms and the main portion of the Chapel being coerced into listening/hearing the sounds of another faith's religious worship and/or religious education/study class when they have no

2/7/07  
Date

Wolfgang Rust  
Signature  
John E. Rust

**PART B: Response and Reason(s) for Decision Reached.**

SEE Pg #1

2/8/07  
Date

[Signature]  
Signature

**NOTE:** A copy of this completed *Informal Grievance Resolution Form* must accompany any *Step 1 Institutional Grievance Form*.

**PART C: Receipt.**

RETURN TO:

Last Name, First, Middle Initial

Number

Facility/Housing Unit

*I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject:*

Date

Signature of Unit Staff Receiving Complaint

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF**

**FROM:** Rüst, Wolfgang/Rust, John E.  
Last Name, First, Middle Initial

30118  
Number

NSP/5-A-20  
Facility/Housing Unit

Page 3 of 5

**PART A: Inmate Request/Concern.**

inclination/desire to hear or receive another faith's religious message.

The 2 purported rooms could have been built with 4 walls, a door, and with appropriate windows for security purposes similar to the construction of the 2 Religious Coordinators offices in the NSP Chapel. Furthermore, there is at least 3 more areas within the NSP Chapel that could be utilized for rooms to hold religious worship and/or religious education/study classes, to wit: (1) the balcony in which 3 rooms could have been constructed; (2) in the basement, located under the Chapel's stage, are 8 rooms that could be cleaned up and utilized; and (3) in the basement, directly below the congregation's pews, is a room that could be converted into additional rooms

The NDCS adopted and adhered the clearly established law set forth in Campbell v. Cauthron, 623 F.2d 503, 509 (8th Cir. 1980)

2/7/07  
Date

Wolfgang Rüst  
Signature  
John E. Rust

**PART B: Response and Reason(s) for Decision Reached.**

SEE PG #1

2/8/07  
Date

[Signature]  
Signature

**NOTE:** A copy of this completed *Informal Grievance Resolution Form* must accompany any *Step 1 Institutional Grievance Form*.

**PART C: Receipt.**

**RETURN TO:**

\_\_\_\_\_  
Last Name, First, Middle Initial

\_\_\_\_\_  
Number

\_\_\_\_\_  
Facility/Housing Unit

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Unit Staff Receiving Complaint



**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF**

**FROM:** Rüst, Wolfgang/Rust, John E.  
Last Name, First, Middle Initial

30118  
Number

NSP/5-A-20  
Facility/Housing Unit

Page 4 of 5

**PART A: Inmate Request/Concern.**

for over 25 years. The Campbell Court specifically held that allowing religious preaching, singing and witnessing within hearing of prisoners who did not wish to hear said message contravenes those prisoner's Free Exercise of Religion right if prison officials refuse to ensure that said prisoners will not be subjected to said coerced inculcation.

The NDCS is now refusing to comply with the clearly established law Campbell, supra, which is enforceable pursuant to RLUIPA, and is now imposing a "substantial burden" on ~~prisoner's~~ "religious exercise" when NDCS implemented the current policy of coerced inculcation through the construction of the 2 purported rooms in the NSP Chapel.

RELIEF: Comply with the clearly established law of Campbell, supra, via the construction of or conversion of rooms in the NSP Chapel and/or utilization of space else-where in the NSP (that

2/7/07  
Date

Signature

**PART B: Response and Reason(s) for Decision Reached.**

SEE Pg #1

2/8/07  
Date

Signature

**NOTE:** A copy of this completed *Informal Grievance Resolution Form* must accompany any *Step 1 Institutional Grievance Form*.

**PART C: Receipt.**

**RETURN TO:**

\_\_\_\_\_  
Last Name, First, Middle Initial

\_\_\_\_\_  
Number

\_\_\_\_\_  
Facility/Housing Unit

*I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject:*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Unit Staff Receiving Complaint



NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF

FROM: Rust, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
Last Name, First, Middle Initial Number Facility/Housing Unit

Page 5 of 5

**PART A: Inmate Request/Concern.**

was the NDCS and/or NSP policy and procedure prior to the construction of the 2 purported rooms in the NSP Chapel) to ensure that prisoner's "religious exercise" is not contravened.

Date

2/7/07

Signature

Wolfgang Rust  
John E. Rust

**PART B: Response and Reason(s) for Decision Reached.**

SEE pg #1

Date

2/8/07

Signature

[Signature]

NOTE: A copy of this completed *Informal Grievance Resolution Form* must accompany any *Step 1 Institutional Grievance Form*.

**PART C: Receipt.**

RETURN TO: \_\_\_\_\_  
Last Name, First, Middle Initial Number Facility/Housing Unit

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject:

Date

Signature of Unit Staff Receiving Complaint

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rust, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 1 of 6

## Part A - INMATE REQUEST/CONCERN:

I am dissatisfied with the 2/8/07 response to my 2/7/07 Informal Grievance #31 and I want to reiterate the issue and facts set forth in the aforesaid Informal Grievance #31 in this Step One Grievance.

Informal Grievance #31 and this Step One Grievance is not about the violation of the Sabatharian (sic) "religious exercise" of RLUIPA and Campbell v. Cauthron, 623 F.2d 503, 509 (8th Cir. 1980) that the 2/8/07 response to my Informal Grievance #31 suggests. The Sabbatarian will need to grieve that violation themselves.

The issue, in my Informal Grievance #31 and this Step One Grievance, is the present newly implemented policy and procedure of noncompliance, after the adoption/adherence for over 25 years, with the Campbell, supra, holding, which is enforceable pursuant

2/11/07  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust

## Part B - RESPONSE AND REASONS FOR DECISION REACHED

I support the response of the informal grievance. Further improvements will be considered as concerns are raised and funds become available.

2-14-07  
DATE

Deled  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

19

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES**  
**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
 TYPE OR USE BALL POINT  
 PEN. IF MORE SPACE IS  
 NEEDED, USE ATTACHMENT  
 SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 2 of 6

**Part A – INMATE REQUEST/CONCERN:**

to RLUIPA, when the NDCS/NSP constructed the 2 purported rooms in the NSP Chapel for religious worship and/or religious education/study classes.

The NSP religious faith groups and other NSP self-betterment clubs, e.g., Veterans, et al., who held their respective activities in the classrooms located in the NSP Turnkey area were informed that said religious faith groups will be holding their activities in the NSP Chapel and the other self-betterment clubs will be holding their activities in the NSP activities Center.

Nebraska Department of Correctional Services Administrative Regulation Number 208.01, RELIGIOUS SERVICES, (hereinafter "AR 208.01"), Section II.B.2. at page 3 (Revised 3/15/06), states: "Program proposals requiring change in institutional or Departmental policy will be reviewed by the Department Religious

2/11/07  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

App. 1

2-14-07  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

19

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES**  
**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
 TYPE OR USE BALL POINT  
 PEN. IF MORE SPACE IS  
 NEEDED, USE ATTACHMENT  
 SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 3 of 6

**Part A – INMATE REQUEST/CONCERN:**

Study Committee [hereinafter "RSC"] which will forward a recommendation to the Assistant Director-Institutions and the Assistant Director-Programs and Community Services."

The construction of the 2 purported rooms in the NSP Chapel for religious worship and/or religious education/study classes constitutes a change in the previous NDCS policy of adherence to the clearly established law of Campbell, supra, for more than 25 years and now subjects inmates to coerced inculcation. That RSC Chair Joe Baldassano, RSC Member/Legal Counsel Kathy Blum, each Member of the Religion Study Committee, Assistant Director-Institutions Frank Hopkins, Assistant Director Programs and Community Services Larry Wayne, and NDCS Director Robert P. Houston reviewed and approved the aforesaid change of institutional and Departmental policy.

2/11/07  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

See p. 1

2-14-07  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 4 of 6

## Part A - INMATE REQUEST/CONCERN:

The 2/8/07 response to my Informal Grievance #31 posits, it is the religious faith group's volunteer and/or inmates responsibility to raise concerns about the sounds, etc. of another religious groups activity that is causing problems. Campbell, supra, and its progeny held it is the duty of the prison officials to ensure that prisoners would not be subjected to the coerced inculcation to another religious faith group's message/activities. Prior to the construction of the 2 purported rooms in the NSP Chapel the NDCS/NSP officials ensured that prisoners were not subjected to coerced inculcation from another religious faith group's message/activities by scheduling religious worship and/or education/study classes in both the NSP Chapel and Turnkey classrooms.

Furthermore, NDCS/NSP officials <sup>WERE</sup> well aware of the

2/11/07  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust

## Part B - RESPONSE AND REASONS FOR DECISION REACHED

See p. 1

2-14-07  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

## Part C - RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)



19

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES**  
**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
 TYPE OR USE BALL POINT  
 PEN. IF MORE SPACE IS  
 NEEDED, USE ATTACHMENT  
 SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 5 of 6

**Part A - INMATE REQUEST/CONCERN:**

ramifications of coerced inculcation by another religious faith group's message/activities because NSP officials required the Asatru education/study class to hold their class in the NSP Chapel while the Prison Congregation of America was holding their education/study class from 6:00-8:00 p.m. on a Saturday during the fall of 2006. This coerced inculcation resulted in an investigation being conducted; the suspension of the Prison Congregations of America volunteer during the aforesaid investigation; the October 2006 meeting between inmate representatives of various religious faith groups and Warden Bakewell, Deputy Warden Cruickshank and Religious Coordinator Marsh.

RELIEF: Comply with the clearly established law of Campbell, supra, via construction of 4 walls, a door, etc. for the 2 purported rooms in the NSP Chapel; the construction/conversion of

2/11/07  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR

**Part B - RESPONSE AND REASONS FOR DECISION REACHED**

See p. 1

2-14-07  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

**Part C - RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)



19

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES**  
**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
 TYPE OR USE BALL POINT  
 PEN. IF MORE SPACE IS  
 NEEDED, USE ATTACHMENT  
 SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 6 of 6

**Part A – INMATE REQUEST/CONCERN:**

the balcony or the areas in the basement of the NSP Chapel; or resumption of using Turnkey classrooms for religious worship and/or education/study classes. The aforesaid will not subject prisoners to the coerced inculcation(s) of another religious faith groups' message/activities.

2/11/07  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

*see p. 1*

2-14-07  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step Two

## CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rust, Wolfgang/Rust, John E.

30118

NSP/5-A-20

LAST NAME,

FIRST,

MIDDLE INITIAL

NO./GROUP

INSTITUTION

Page 1 of 5

**\*Part A – REASON FOR APPEAL:**

I am dissatisfied with the 2/8/07 response to my 2/7/07 Informal Grievance #31 and the 2/14/07 response to my 2/11/07 Step One Grievance #I9 and I want to reiterate the issue and facts set forth in the aforesaid 2 Grievance in this Step Two Grievance.

The Step One Grievance response alleges: "[f]urther improvements will be considered as concerns are raised and funds become available." The NDCS/NSP officials, who are named in the 2 Grievances identified in the preceding paragraph, were fully aware of the concerns and ramifications of coerced inculcation of the religious message/activity from another religious faith group prior to the construction of the purported 2 rooms for religious activity in the NSP Chapel, to wit: 1. As stated on page 1 of my Informal Grievance #31 and pages 4-5 of my Step One Grievance #I9 the NDCS/NSP officials were fully aware of the ramifications from the coerced inculcation of a religious message/activity from one

2/28/07  
DATE

Wolfgang Rust  
aka John E. Rust  
SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

3-30-07  
DATE

See attached response.

J. K. Hopkins Jr.  
DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

# GRIEVANCE FORM

## Step Two

### CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

Page 2 of 5  
**\*Part A – REASON FOR APPEAL:**  
 religious faith group can have on another religious faith group when the NSP required the Asatru religious group to hold their religious class in the NSP Chapel when Prison Congregation of America was conducting their religious activity in the NSP Chapel; and 2. that concerns about coerced inculcation were raised during a October 2006 meeting (the participates of said meeting were detailed in the annexed Informal and Step One Grievances) and Warden Bakewell indicated that inmates would not be subjected to coerced inculcation from any religious faith group's religious message/activity. Also, inmates from several religious groups have filed Grievances on ~~being~~ being subjected to coerced inculcation of unwanted religious messages/activities from other religious faith groups in the NSP Chapel since the construction of and utilization of the purported 2 rooms in the NSP Chapel.

2/28/07  
DATE

Wolfgang Rust  
SIGNATURE  
John E. Rust

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

### Part B – RESPONSE AND REASONS FOR DECISION REACHED

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

### Part C – RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

# GRIEVANCE FORM

## Step Two

### CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

Page 3 of 5

**\*Part A – REASON FOR APPEAL:**

The NDCS/NSP officials (who are named in my Informal Grievance #31 and Step One Grievance #19) did not consult with the free-world volunteers and/or leaders of the various inmate religious faith groups within the Department regarding said volunteers and/or leaders concerns about possible coerced inculcation from the religious message/activity of another religious faith group based on the planned construction of the purported 2 rooms for religious activity in the NSP Chapel. Instead, those named NDCS/NSP officials chose to construct the purported 2 rooms for religious activity in the NSP Chapel in total disregard of the violation of both the inmates and free-world volunteers/leaders "religious exercise" pursuant to RLUIPA and Campbell v. Cauthron, 623 F.2d 503, 509 (8th Cir. 1980). The construction cost for these purported 2 rooms could have been better utilized to create 3 enclosed rooms on the NSP Chapel's balcony or to refurbish the 8 rooms located below the

2/28/07  
DATE

Wolfgang Rust  
SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

# GRIEVANCE FORM

## Step Two

### CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rust, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

Page 4 of 5

**\*Part A – REASON FOR APPEAL:**

NSP Chapel's stage.

Now the NDCS/NSP plead "lack of funds" to remedy the coerced inculcation ~~of~~ of unwanted religious messages/activities they created via the construction of the purported 2 rooms for religious activity in the NSP Chapel. This coerced inculcation of unwanted religious messages/activities and violation of RLUIPA and Campbell, supra, can be remedied without a ~~an~~ expenditure of funds, to wit: 1. allowing inmate religious faith groups to utilize the NSP Turnkey classrooms which was the situation before the construction of the purported 2 rooms in the NSP Chapel; and 2. refurbish the 8 rooms below the NSP Chapel's stage for religious activity by using inmates who are on room restriction.

RELIEF: Comply with the clearly established law of RLUIPA and Campbell, supra, to prevent the coerced inculcation of

2/28/07  
DATE

Wolfgang Rust  
SIGNATURE  
Rust, John E.

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL



## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

# GRIEVANCE FORM

## Step Two

### CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rust, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

Page 5 of 5

**\*Part A – REASON FOR APPEAL:**

the unwanted religious messages/activities from other religious faith group(s) in the NSP Chapel, to wit: 1. refurbish the 8 rooms located below the NSP Chapel's stage as described in the previous paragraph; 2. utilize the Turnkey classrooms as described in the previous paragraph; or 3. construction of 4 walls, a door, etc. for the purported 2 rooms for religious activity in the NSP Chapel.

2/28/07  
DATE

Wolfgang Rust  
SIGNATURE  
John E. Rust

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

GRIEVANCE FORM

Step Two  
Central Office Appeal

RESPONSE AND REASONS FOR DECISION REACHED

Inmate Name: Rust, John  
Inmate Number: #30118  
Date Received: March 1, 2007  
Grievance Number: #07-0205  
Subject: Chapel

Response:

The space available for holding religious services and study groups is limited. Therefore, the chapel was divided into two spaces so more religious meeting could be scheduled. The groups meeting at the same time need to be respectful and not disturb each other.

3-30-07  
Date

J. K. Hopkins for  
Director

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF**

**FROM:** Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
Last Name, First, Middle Initial Number Facility/Housing Unit

Page 1 of 2

**PART A: Inmate Request/Concern.**

From 7 p.m. thru 8 p.m. on Tuesday, April 1, 2008, the Theódish Belief religious exercise, i.e., religious education/study class, was disrupted when we were subjected to religious singing by the Spanish catechism group because the acoustics of the Religious Center/Chapel building results in the reverberation of sounds throughout the entire building.

The overall structure of the Religious Center/Chapel building's main floor, the construction of 2 open-ended walls to create 3 areas on the main floor, and the acoustics of the main floor results in the coerced inculcation of unwanted religious exercise from other religious groups which imposes a substantial burden on Theódish Belief inmates' religious exercise.

The NDCS refuses to insure that inmates will not be subjected to coerced inculcation of the unwanted religious exercise of another religious group by constructing enclosed rooms on the main floor.

April 2, 2008  
Date

Wolfgang Rüst  
Signature  
John E. Rust

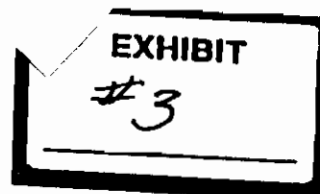
**PART B: Response and Reason(s) for Decision Reached.**

Your concerns are noted. The Religious Coordinators reports that they will do their best to only schedule similar type faith groups in the religious center at the same time. Due to the lack of overall programming space and staffing, they are not in the position to use the Religious Center for only one activity at a time.

4-16-08  
Date

[Signature]  
Signature

**NOTE:** A copy of this completed *Informal Grievance Resolution Form* must accompany any *Step 1 Institutional Grievance Form*.



NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF

FROM: Rust, Wolfgang/Rust, John E. Rust 30118 NSP/5-A-20  
Last Name, First, Middle Initial Number Facility/Housing Unit

Page 2 of 2

**PART A: Inmate Request/Concern.**

of the Religious Center/Chapel, refurbishing and utilizing the existing rooms located in the basement of the Religious Center/Chapel, or utilizing the rooms in the school which stands empty during the evening and on weekends.

RELIEF: Construct enclosed rooms on the main floor of the Religious Center/Chapel, refurbish and utilize the existing rooms in the basement of the Religious Center/Chapel, or utilize the empty rooms in the school during the evenings and weekends.

April 2, 2008  
Date

Wolfgang Rust  
Signature  
John E. Rust

**PART B: Response and Reason(s) for Decision Reached.**

See response on page #1

4-16-08  
Date

C. M. J.  
Signature

NOTE: A copy of this completed Informal Grievance Resolution Form must accompany any Step 1 Institutional Grievance Form.

**PART C: Receipt.**

RETURN TO: \_\_\_\_\_  
Last Name, First, Middle Initial Number Facility/Housing Unit

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date

Signature of Unit Staff Receiving Complaint

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 1 of 4

**Part A – INMATE REQUEST/CONCERN:**

I'm dissatisfied with the 4/16/08 response to my 4/2/08 Informal Grievance #2008-5004 and I want to reiterate/incorporate into this Step One Grievance the issue and facts with the relief requested as set forth in my 4/2/08 Informal Grievance.

The aforementioned 4/16/08 response establishes the NDCS adheres to the policy of total disregard/contempt for the ritual purity and spiritual purity of inmates' "religious exercise." Instead of ensuring inmates will not be subjected to coerced inculcation of unwanted religious exercise by other religious groups, the NDCS imposes a substantial burden upon the "religious exercise" of the other religious groups when an inmate or inmate religious group raises coerced inculcation of unwanted religious exercise by another religious group.

The aforementioned NDCS policy is demonstrated by: Assistant

April 20, 2008  
DATE

Wolfgang Rüst  
SIGNATURE OF REQUESTOR  
John E. Rust

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

I support the response to the informal grievance. Staffing patterns do not allow for separate enclosed rooms while maintaining the safety and security of this area. The Religious Coordinator's office will continue to work on solutions to these problems as they arise.

4-24-08  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.



## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 2 of 4

## Part A – INMATE REQUEST/CONCERN:

Director Frank Hopkins specious 3/30/07 response to my Step Two Grievance #07-0205, "[t]he groups meeting at the same time need to be respectful and not disturb each other." The only way this can occur is for the inmates' to modify and/or stop their respective religious exercises so they would not subject other inmates to coerced inculcation of unwanted religious exercise. Also, during the Wednesday, 4/9/08, 9:00 a.m., Faith Group Representatives (inmates) Meeting Religious Coordinator Steve Marsh, while responding to an inmate's concerns of their religious exercise of singing interferes with the Saturday morning Muslim religious exercise, indicated the Tuesday Spanish Catechism group was advised they could not conduct their singing religious exercise since it interfered with Theodish Belief inmates' religious exercise.

I want to point out the 2 Religious Coordinators' offices are

April 20 2008  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust

## Part B – RESPONSE AND REASONS FOR DECISION REACHED

see p 1

4-24-08  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

## Part C – RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 3 of 4

## Part A – INMATE REQUEST/CONCERN:

fully enclosed rooms which ensures the Religious Coordinators will not be subjected to coerced inculcation of unwanted religious exercise from the various religious groups who use the NSP Religious Center/Chapel. The NDCS chooses to erect 2 open-ended walls to create 2 additional spaces for inmate religious exercise but refuses to construct 2 enclosed rooms like the Religious Coordinators' offices, or to refurbish the (former music) rooms in the basement of the NSP Religious Center/Chapel, or to use the empty school during the evening and weekends to ensure inmates will not be subjected to coerced inculcation of unwanted religious exercise by other religious groups.

The acoustics of the NSP Religious Center/Chapel results in ordinary conversations or other activity (religious or non-religious) is heard in every location in the building. The coerced inculcation of religious exercise by another religious

April 20, 2008  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust

## Part B – RESPONSE AND REASONS FOR DECISION REACHED

See p. 1

4-24-08  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

## Part C – RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 4 of 4

## Part A – INMATE REQUEST/CONCERN:

group on 4/1/08 is not an isolated incident because the acoustics of the NSP Religious Center/Chapel allow normal conversations to carry over the entire building on a weekly basis.

RELIEF REQUESTED: Because of the acoustics of the NSP Religious Center/Chapel, the only viable way to ensure inmates will not be subjected to coerced inculcation of unwanted religious exercise from other religious groups, is to complete the construction began with the 2 open-ended walls by the constructing 2 fully enclosed rooms on the main floor of the NSP Religious Center/Chapel, or to refurbish and utilize the existing rooms in the basement of the NSP Religious Center/Chapel, or to utilize the classrooms in school building which is now used and stands empty during the evening hours and on the weekends.

April 20, 2008  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust

## Part B – RESPONSE AND REASONS FOR DECISION REACHED

See p-1

4-24-08  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

## Part C – RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

# GRIEVANCE FORM

## Step Two

### CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rüst, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

Page 1 of 4

**\*Part A – REASON FOR APPEAL:**

I'm dissatisfied with the 4/24/08 response to my 4/20/08 Step One Grievance #2008-3004 and I want to reiterated/incorporate into this Step Two Grievance the issue and the facts with the relief requested as set forth in my 4/2/08 Informal Grievance #2008-5004 and my 4/20/08 Step One Grievance #2008-3004.

The 4/24/08 response alleges "[s]taffing patterns do not allow for separate enclosed rooms while maintaining the safety and security of this area." Religious activities are held Monday thru Friday in the morning and afternoon in the NSP Religious Center/Chapel with only the Religious Coordinators in their offices which have large glass windows on 3 sides of each office.

The school is staffed with 1 Correctional Officer when inmates and civilian teachers are holding class which is a similar situation with 1 Correctional Officer assigned to the NSP Religious Center/Chapel with inmates and outside religious

May 1, 2008  
DATE

Wolfgang Rüst  
SIGNATURE  
John E. Rüst

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

6-5-08  
DATE

See attached response.

J. Hopkins for  
DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

2008 - 3004

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
**GRIEVANCE FORM**  
**Step Two**  
**CENTRAL OFFICE APPEAL**

INSTRUCTIONS:  
 TYPE OR USE BALL POINT  
 PEN. IF MORE SPACE IS  
 NEEDED, USE ATTACHMENT  
 SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

Page 2 of 4

**\*Part A – REASON FOR APPEAL:**

volunteers in the evenings and on weekends (all day & evening) or when Religious Coordinators with inmates and outside religious volunteers from Monday thru Friday in the morning and afternoon. The aforementioned Correctional Officers assigned to the school or the Religious Center/Chapel and the Religious Coordinators walk around their respective areas to maintain safety and security. The enclosed school classrooms have large windows which allow the officer to observe activities in the classrooms. Conversion of the 2 areas with open-ended walls into fully enclosed rooms with windows like the school classrooms and the Religious Coordinators offices should affect safety and security since the enclosed school classrooms does not affect safety and security. I've been informed the 8 rooms in the NSP Religious Center/Chapel basement supposedly have windows in each room. Based on the 4/24/08 response, why/how is it possible for the correctional officer assigned to the school is able to walk

May 1, 2008  
DATE

Wolfgang Rust  
SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL



NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
**GRIEVANCE FORM**  
**Step Two**  
**CENTRAL OFFICE APPEAL**

INSTRUCTIONS:  
 TYPE OR USE BALL POINT  
 PEN. IF MORE SPACE IS  
 NEEDED, USE ATTACHMENT  
 SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 NSP/5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

Page 3 of 4

**\*Part A – REASON FOR APPEAL:**

around and maintain safety and security by observing activities in each enclosed classroom but the assigned correctional officer or the Religious Coordinators would not be able to do the same for fully enclosed rooms with windows in the NSP Religious Center/Chapel. This 4/24/08 response certainly indicates the school is a more secure building and would be better suited for religious activities, which does not subject inmates to coerced inculcation of unwanted "religious activity" from other religious groups, during the evening and on weekends.

This 4/24/08 response further demonstrates the NDCS policy of total disregard/contempt for Theodish Belief "religious exercise(s)" of bringing and maintaining ritual purity and spiritual purity into the holy stead, i.e., the Weohsteall (place of the altar), Symbel Hall, Blót, Symbel, other Fainings, religious education/study class, etc., in Theodish Belief congregational practice.

May 1, 2008  
DATE

Wolfgang Rust  
SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

# GRIEVANCE FORM

## Step Two

### CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E.  
LAST NAME, FIRST, MIDDLE INITIAL

30118  
NO./GROUP

NSP/5-A-20  
INSTITUTION

Page 4 of 4

#### \*Part A - REASON FOR APPEAL:

RELIEF: Acknowledge and allow Theodish Belief inmates their "religious exercise" of bringing and maintaining ritual purity and spiritual purity into the holy stead as outlined in the preceding paragraph, and provide the relief requested in both my 4/2/08 Informal Grievance #2008-5004 and my 4/20/08 Step One Grievance #2008-3004.

May 1, 2008  
DATE

Wolfgang Rust  
SIGNATURE  
John E. Rust

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

#### Part B - RESPONSE AND REASONS FOR DECISION REACHED

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

#### Part C - RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

**GRIEVANCE FORM**

**Step Two**

**Central Office Appeal**

**RESPONSE AND REASONS FOR DECISION REACHED**

Inmate Name: RUST JOHN E (RUST,WOLFGANG)

Inmate Number: 30118

Date Received: 05/02/08

Grievance Number: 2008-3004

Subject: Religion

Response:

You ask that the Religious Center be remodeled to provide enclosed areas with doors. This request is denied because of security concerns and staffing patterns. The Religious Coordinators will continue to monitor the situation and try to resolve any conflicts.

Date

6-5-08

Director

A handwritten signature in black ink, appearing to read "J. Hopkings", is written over a horizontal line. The signature is cursive and includes a long, sweeping flourish at the end.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF

FROM: Conn Bobby J 57625 NSP/ 5A-13  
Last Name, First Middle Initial Number Facility/Housing Unit

**PART A: Inmate Request/Concern.**

On Tuesday Evening Oct 3~~00~~<sup>06</sup>, 2006. I had to miss Theodish Belief class due to circumstances that were out of my control. Count was late and since we eat 3rd in line we didn't get to eat until approx. 6:50 p.m. Theodish Belief starts at 6:00 p.m. I shouldn't be denied my religious beliefs to go eat chow and I shouldn't be denied food to make my religious beliefs.

A simple fix for debacles such as this would be to have all Theodish Belief practitioners out on early lines giving us plenty of time to eat and make the doors rush to class.

10/5/06  
Date

Bobby J Conn  
Signature

**PART B: Response and Reason(s) for Decision Reached.**

The schedule is set trying to be fair to each housing unit. Staff cannot control issues that may effect when count clears and inmates are allowed out to eat. The expansion of early line w. d not resolve this issue and to allow one group and not others would not be fair. The compensation to allow all groups out early would greatly effect the schedule as cause security issues during the meal period.

10/19/06  
Date

[Signature]  
Signature

NOTE: A copy of this completed Informal Grievance Resolution Form must accompany any Step 1 Institutional Grievance Form.



NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

**GRIEVANCE FORM****Step One****CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Conn Bobby J 57625 NSP/SA-13  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

**Part A – INMATE REQUEST/CONCERN:**

I am dissatisfied with the 10/19/06 response to my informal Grievance #154 and I want to reiterate the issue raised therein.  
The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPPA) 42 U.S.C. § 2000cc-1 to § 2000cc-5 mandates the current constitutional standard for inmate religious rights.  
Section IV, G. 2. on page 10 of administrative regulation #208.01 recognizes that religious education/study is an actual tenet requirement of a religious/faith and local community practices, NEB. REV. STAT. § 83-182 requires the Director to establish programs, i.e., religion, etc. to prepare and assist each person committed to the NDCS to assume his/her responsibilities as a useful citizen.

10/25/06  
DATE

Bobby J. Conn  
SIGNATURE OF REQUESTOR

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**

I support the response to the informal grievance #154.

11-3-06  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.



NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Conn Bobby J 57625 NSP 5A-13  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

**Part A - INMATE REQUEST/CONCERN:**

Theodish Belief arings (ranks) of "Thralldom" in High Theodism and "Learner" or "Learning wight" in Greater Theodism require education/study/discussion of Theodish religious lore is a mandatory tenet of Theodish Belief. See, e.g., Garman Lord The way of the Heather: A Handbook of Greater Theodism, pp. 53-54; Garman Lord, Gesida HandBook: An Introduction to Theodish Belief, pp 5-6 + pp 11-12. Terry A. Coker, "Thralldom: What is all this?" Theod Magazine, Vol. III No 2, Wættburgas 1996 pp 3-7.

The 10/19/06 response to my informal Grievance #154 states: "The Expansion of Early lines would not resolve the issue and to allow one group and not others would not be fair. The Court in Gonzales v. O Centro Espirita Beneficente União Do Vegetal 126 S.Ct 1211, 1223-24 (2006) Rejected the similar "Classic Rejoinder of Bureaucrats throughout history: If I make an exception for you, I'll have to

10/25/06  
DATE

Bobby Conn  
SIGNATURE OF REQUESTOR

**Part B - RESPONSE AND REASONS FOR DECISION REACHED**

see p. 1

11-3-06  
DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

**Part C - RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

SEE Pg 11

11/1/06  
DATE

[Signature]  
RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Conn Bobby J 57625 NSP/SA-13  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

## Part A - INMATE REQUEST/CONCERN:

make one for everybody, so no exceptions," when dealing with religious rights. That inmates are routinely placed on Early line rosters to eat so they can timely attend/participate as part of the team, etc of the daily schedule of recreational activities e.g., Softball, Basketball, Football, Soccer, Volleyball, etc. The NDCS refusal to place Theodish Belief inmates on early line rosters to allow them to eat so they can timely attend/participate in the scheduled weekly Theodish Belief education/study class when education/study/discussion of Theodish Belief lore is a mandatory requirement (tenet) of Theodish Belief results in the imposition of a substantial burden on the religious ~~burden~~ exercise of Theodish inmates. The NDCS refusal to place Theodish Belief inmates on early line education/study class roster but routinely place other inmates on a daily recreation activities roster.

10/25/06

DATE

Bobby J Conn  
SIGNATURE OF REQUESTOR

## Part B - RESPONSE AND REASONS FOR DECISION REACHED

see p1

11-3-08

DATE

S. J. Conn  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

## Part C - RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

**GRIEVANCE FORM****Step One****CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Conn Bobby J 57625 NSP/5A-13  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

**Part A – INMATE REQUEST/CONCERN:**

indicates that NDCS does not believe that First Amendment and RLUIPA religious rights merit the same exemptions accorded to inmates who participate in scheduled recreational activities.

RELIEF: Place Theodish Belief inmates on the early line roster to eat so they can timely attend/participate in the scheduled weekly Theodish Belief education/study because education/study/discussion of Theodish Belief lore is a mandatory tenet of Theodish Belief

10/25/06

DATE

Bobby J Conn  
SIGNATURE OF REQUESTOR

**Part B – RESPONSE AND REASONS FOR DECISION REACHED**see p. 111-3-06

DATE

[Signature]  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

**Part C – RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject: \_\_\_\_\_

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

(SEE REVERSE SIDE FOR INSTRUCTIONS FOR APPEAL TO DIRECTOR OR DIRECT SUBMISSION TO DIRECTOR)

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step Two

## CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Conn Bobby J 57625 / Theodish NSP  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

**\*Part A - REASON FOR APPEAL:**

I am dissatisfied with the 10/19/06 response to my informal Grievance #154 and the 11/3/06 response to my Step One Grievance #I233 and I reiterate the issue and facts set forth in the aforesaid two(2) grievances.

Murphy v. Missouri Dept. of Corrections 372 F.3d 979, 988 (8th Cir. 2004) held under RLUIPA group religious discussion and study (ie, religious education, study classes) is a "Religious Exercise" that can be "substantially burdened" by prison staff. Corp. of the Presiding Bishop of the church of Jesus Christ of the Latter-day Saints v. Amos, 483 U.S. 327, 334 (1987) held the Government may make special accommodations for religious practices that are not extended to nonreligious practices. RLUIPA requires prisons to do just that.

11/13/06

DATE

Bobby J Conn

SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B - RESPONSE AND REASONS FOR DECISION REACHED**

Please see attached - Thru

12-11-06

DATE

B Shortridge

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step Two

## CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Conn Bobby J 57623/Theodish NSP  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

## \*Part A - REASON FOR APPEAL:

Neb. Rev. Stat. § 83-182 requires the Director to establish programs, i.e., "Religion and recreational activities," to prepare and assist each person committed to the NDCS to assume his/her responsibilities as a useful citizen. Individualized exemptions have been made to routinely place inmates on early line roster(s) to eat so they can timely attend/participate in the daily schedule of recreational activities. However, the NDCS refuses to accord Theodish Belief inmates a similar exception that would allow them to eat so they can timely attend/participate in the scheduled weekly Theodish Belief education/study class. *Bowen v. Roy*, 476 U.S. 693, 708 (1986) held when individualized exemptions are available (i.e., the above said early line exemption accorded to inmates participating in recreational activities) the government cannot refuse to extend the same exemption and refusal to extend a similar exemption tends to exhibit hostility towards this particular Religious belief.

11/13/06  
DATE

Bobby J Conn  
SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

## Part B - RESPONSE AND REASONS FOR DECISION REACHED

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

## Part C - RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL



## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step Two

## CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Conn Bobby J 57625/Theodish NSP  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

## \*Part A - REASON FOR APPEAL:

The members of the NDCS Religion Study Committee, Kathy Blum, Joe Bablissano, Steve Marsh, Francis Hopkins, Larry Wayne, and Robert Houston refusal to approve placement of Theodish Belief inmates on early line rosters to allow them to eat so they can timely attend/participate in the scheduled weekly Theodish Belief Education/Study class and/or worship imposes a "substantial burden" on Theodish Belief inmates "religious exercise" is in direct violation of RLUIPA and the blatant refusal approve an exemption to place Theodish Belief on early lines rosters while routinely placing other inmates on early line rosters for recreational activities and other non-religious activities imposes a "substantial burden" on theodish Belief inmates "religious exercise is in direct violation of RLUIPA (which encompasses/incorporates Bowen v. Roy, Supra)

11/13/06

DATE

Bobby J Conn

SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

## Part B - RESPONSE AND REASONS FOR DECISION REACHED

DATE

DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

## Part C - RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

# GRIEVANCE FORM

## Step Two

### CENTRAL OFFICE APPEAL

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Cann Bobby J 57623/Theodish NSP  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

**\*Part A - REASON FOR APPEAL:**

RELIEF: Place Theodish Belief inmates on early line roster(s) to eat so they can timely attend/participate in theodish Belief religious exercise.

11/13/06  
DATE

Bobby J. Cann  
SIGNATURE

\*THE COMPLETED INSTITUTIONAL GRIEVANCE FORM, INCLUDING THE CHIEF EXECUTIVE OFFICER'S/SUPERINTENDENT'S RESPONSE, MUST ACCOMPANY THIS APPEAL.

**Part B - RESPONSE AND REASONS FOR DECISION REACHED**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DIRECTOR

ORIGINAL: TO BE RETURNED TO INMATE/STUDENT AFTER COMPLETION.

**Part C - RECEIPT**

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL NO./GROUP INSTITUTION

I acknowledge receipt this date of the above inmate's/student's appeal from the response received from the following complaint: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

GRIEVANCE FORM

Step Two  
Central Office Appeal

RESPONSE AND REASONS FOR DECISION REACHED

Inmate Name: Conn, Bobby  
Inmate Number: #57625  
Date Received: November 15, 2006  
Grievance Number: #06-1152  
Subject: Religion

Response:

You state that on October 3, 2006 count was late and delayed your going to the dining hall to eat. You contend this interfered with your attending the Theodish class. Count is an important security measure and there will be times when the clearing of count is delayed. When this happens, it affects a number of inmate activities including the religious study groups..

12-11-06  
Date

Daren Shortridge Jr  
Director

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## INMATE INTERVIEW REQUEST

EXHIBIT

#5

TO: Chapel - Steve Marsh DATE: 5-4-06FROM: Wolfgang Rüst aka John E. Rust 30118 NSP 5-A-20  
NAME / NUMBER FACILITY LOCATIONWORK LOCATION: Braille 41 UNIT STAFF: \_\_\_\_\_

MESSAGE: Pursuant to our 5/3/06 conversation I'm sending you this note. Our Unit eats last this month. When want cleared around 5:20pm on 5/2/06 inmates on early line rosters were allowed to go to shower & the Unit began running showers. Modish inmates were not allowed to go to shower or we would attend the scheduled 6pm class but had to go to shower with the other general population inmates after 6:05pm. I asked to be released since the roster states I need to be at the Chapel by 17:45 but I was not released. When I arrived at the Chapel around 6:15 I asked Officer Creed to call Unit 5 about the roster. Someone at Unit 5 indicated they were aware of the situation but due to having to remove an inmate from the Unit before want even began they we weren't released. The removal of this inmate for psychiatric observation did not preclude the Unit from releasing dog handlers inmates on sports rosters, & other early line for shower or to run the remaining inmates for showers before running the general population for shower after 6:05pm. Officer Creed can relate the specifics of the phone conversation.

ORIGINAL - DCS Employee

YELLOW - Inmate

Both copies need to be submitted for response.

Signature

aka John E. Rust

REPLY: That day an inmate barricaded himself in his room, so "Safety, Security & Good Order" over-ruled other considerations. Everyone should be treated equally, fairly, but as conditions change, some inmate-movement previously allowed may later not be allowed. Otherwise, you have authorized, via the Theological Class Roster, to be escorted to set up at the Chapel each

5-17-06

Date

S Marsh

Signature

Tues.

at 1745 hours



**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF**

**FROM:** Rust, Wolfgang/Rust, John E. 30118 N.S.P. 75-A-20  
Last Name, First, Middle Initial Number Facility/Housing Unit

**PART A: Inmate Request/Concern.**

On 2/7/06, the NSP Mess Hall did not close until after 6:00 p.m. (this occurs at a fairly regular basis) resulting in hourly doors being delayed until after 6:12 p.m. for scheduled religious activities. Theodish inmates could not timely attend their scheduled 6:00 p.m. Tuesday religious activity until after 6:12 p.m. That inmates on an approved religious roster need to be placed on early lines to permit them to eat so they can timely attend their scheduled religious activity. The NDCS grants early line exemptions to permit inmates on approved sports rosters to eat before going to their scheduled sports activity, i.e., softball, basketball, volleyball, football, etc. It is incongruous the NDCS grants the aforesaid early line exemptions to inmates for sports activities but refuses to grant the same early line exemptions to inmates for religious activities.

**RELIEF:** Grant inmates on approved religious rosters early line exemption to permit them to eat before timely attending any scheduled religious worship and education/study activities.

2-8-06  
Date

Wolfgang Rust  
Signature

**PART B: Response and Reason(s) for Decision Reached.**

At times there may be a reason for a delay in the releasing inmates to chow from count. The occurrence of this delay does not occur on a regular basis and a change to the operating procedure is not warranted.

2/23/06  
Date

[Signature]  
Signature

**NOTE:** A copy of this completed *Informal Grievance Resolution Form* must accompany any *Step 1 Institutional Grievance Form*.

**EXHIBIT**

#6



## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 N.S.P./5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 1 of 2

## Part A - INMATE REQUEST/CONCERN:

I'm dissatisfied with the 2/23/06 response to my 2/8/06 Informal Grievance and I reiterate the issue and facts set forth in the aforesaid Grievance.

The issue is: the NDCS refuses to place inmates on the early line roster to allow them to eat so they can timely attend/participate in scheduled "religious worship/education/study/discussion classes" while specifically granting exemptions that place inmates on early line rosters to eat so they are permitted to timely attend/participate in scheduled sports activity, Hobby Association, be a volunteer dog handler, self-betterment club board members, etc. In effect, the NDCS position, as expressed in the response to my Informal Grievance, is it is more important to permit inmates on early line rosters to eat so they can timely attend/participate in the activities outlined supra allowing inmates on early line rosters

3-8-06

DATE

Wolfgang Rüst  
SIGNATURE OF REQUESTOR  
John E. Rust

## Part B - RESPONSE AND REASONS FOR DECISION REACHED

I support the response to Informal Grievance #31. If you have a suggestion that will assist in the smooth running of religious programming you may work with Religious Coordinator Marsh on these suggestions.

3/15/06

DATE

for Mauro Peart  
CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

## NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

## GRIEVANCE FORM

## Step One

## CHIEF EXECUTIVE OFFICER

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E.  
LAST NAME, FIRST, MIDDLE INITIAL

30118  
NO.

N.S.P./5-A-20  
FACILITY/HOUSING UNIT

Page 2 of 2

## Part A - INMATE REQUEST/CONCERN:

to eat so they can timely attend/participate in the scheduled "religious worship/education/study/discussion classes." Its irrelevant that these delays do not occur on a regular basis. Religious activity is rehabilitative and "Religious Exercise" is protected by "The Religious Land Use and Institutional Persons Act" (RLUIPA) 42 U.S.C. §2000cc et seq.

Relief: Place Theodish Belief inmates on the early line roster to allow them to timely attend/participate in their scheduled religious activity.

3-8-06

DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
Aka John E. Rust

## Part B - RESPONSE AND REASONS FOR DECISION REACHED

DATE

CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

31

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
INFORMAL GRIEVANCE RESOLUTION FORM  
UNIT STAFF**

**FROM:** Rust, Wolfgang/Rust, John E. 30118 N.S.P. 75-A-20  
                     Last Name, First, Middle Initial                      Number                      Facility/Housing Unit

**PART A: Inmate Request/Concern.**

On 2/7/06, the NSP Mess Hall did not close until after 6:00 p.m. (this occurs at a fairly regular basis) resulting in hourly doors being delayed until after 6:12 p.m. for scheduled religious activities. Theodish inmates could not timely attend their scheduled 6:00 p.m. Tuesday religious activity until after 6:12 p.m. That inmates on an approved religious roster need to be placed on early lines to permit them to eat so they can timely attend their scheduled religious activity. The NDCS grants early line exemptions to permit inmates on approved sports rosters to eat before going to their scheduled sports activity, i.e., softball, basketball, volleyball, football, etc. It is incongruous the NDCS grants the aforesaid early line exemptions to inmates for sports activities but refuses to grant the same early line exemptions to inmates for religious activities.

RELIEF: Grant inmates on approved religious rosters early line exemption to permit them to eat before timely attending any scheduled religious worship and education/study activities.

2-8-06

Date

Signature

**PART B: Response and Reason(s) for Decision Reached.**

At times there may be a reason for a delay in the releasing inmates to chow from count. The occurrence of this delay does not occur on a regular basis and a change to the operating procedure is not warranted.

2/23/06  
Date

Signature

157

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES**  
**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
 TYPE OR USE BALL POINT  
 PEN. IF MORE SPACE IS  
 NEEDED, USE ATTACHMENT  
 SHEET IN TRIPLICATE.

From: Rust, Wolfgang/Rust, John E. 30118 N.S.P./5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 1 of 2

**Part A - INMATE REQUEST/CONCERN:**

I'm dissatisfied with the 2/23/06 response to my 2/8/06 Informal Grievance and I reiterate the issue and facts set forth in the aforesaid Grievance.

The issue is: the NDCS refuses to place inmates on the early line roster to allow them to eat so they can timely attend/participate in scheduled "religious worship/education/study/discussion classes" while specifically granting exemptions that place inmates on early line rosters to eat so they are permitted to timely attend/participate in scheduled sports activity, Hobby Association, be a volunteer dog handler, self-betterment club board members, etc. In effect, the NDCS position, as expressed in the response to my Informal Grievance, is it is more important to permit inmates on early line rosters to eat so they can timely attend/participate in the activities outlined supra allowing inmates on early line rosters

3-8-06  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust  
CHIEF EXECUTIVE OFFICER

**Part B - RESPONSE AND REASONS FOR DECISION REACHED**

I support the response to Informal Grievance #31. If you have a suggestion that will assist in the smooth running of religious programming you may work with Religious Coordinator Marsh on these suggestions.

3/15/06  
DATE

John E. Rust  
CHIEF EXECUTIVE OFFICER

157

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES**  
**GRIEVANCE FORM**  
**Step One**  
**CHIEF EXECUTIVE OFFICER**

INSTRUCTIONS:  
TYPE OR USE BALL POINT  
PEN. IF MORE SPACE IS  
NEEDED, USE ATTACHMENT  
SHEET IN TRIPLICATE.

From: Rüst, Wolfgang/Rust, John E. 30118 N.S.P./5-A-20  
LAST NAME, FIRST, MIDDLE INITIAL NO. FACILITY/HOUSING UNIT

Page 2 of 2

**Part A - INMATE REQUEST/CONCERN:**

to eat so they can timely attend/participate in the scheduled "religious worship/education/study/discussion classes." Its irrelevant that these delays do not occur on a regular basis. Religious activity is rehabilitative and "Religious Exercise" is protected by "The Religious Land Use and Institutional Persons Act" (RLUIPA) 42 U.S.C. §2000cc et seq.

Relief: Place Theodish Belief inmates on the early line roster to allow them to timely attend/participate in their scheduled religious activity.

3-8-06  
DATE

Wolfgang Rust  
SIGNATURE OF REQUESTOR  
John E. Rust

**Part B - RESPONSE AND REASONS FOR DECISION REACHED**

DATE

CHIEF EXECUTIVE OFFICER



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                           |   |  |
|---------------------------|---|--|
| WOLFGANG RÜST and         | ) |  |
| BOBBY CONN,               | ) | 4:08CV3185                             |
| Plaintiffs,               | ) |  |
|                           | ) |  |
| vs                        | ) | AFFIDAVIT OF TYLER CHAMBERLAIN, RODNEY |
|                           | ) | LOWE and RONALD W. SHAFFER             |
|                           | ) |  |
| NEBRASKA DEPARTMENT OF    | ) |  |
| CORRECTIONAL SERVICES     | ) |  |
| RELIGION STUDY COMMITTEE, | ) |  |
| Defendants.               | ) |  |
|                           |   |  |
| STATE OF NEBRASKA         | ) |  |
|                           | ) | ss.                                    |
| COUNTY OF LANCASTER       | ) |  |

COMES NOW your Affiants, Tyler Chamberlain, Rodney Lowe, and Ronald W. Shaffer, having been first duly sworn on oath, and depose and state the following:

1. Tyler Chamberlain is a Nebraska State Prisoner, #65800, P O Box 2500, Lincoln NE 68542-2500. He is, and has been, an active member of the Asatru Faith Kindred at the Nebraska State Penitentiary where he is a Gothi (priest).
2. Rodney Lowe is a Nebraska State Prisoner, #61915, P O Box 2500, Lincoln NE 68542-2500. He is, and has been, an active member of the Asatru Faith Kindred at the Nebraska State Penitentiary where he is a Gothi (priest).
3. Ronald W. Shaffer is a Nebraska State Prisoner, #66743, P O Box 2500, Lincoln NE 68542-2500. He is, and has been, an active member of the Asatru Faith Kindred at the Nebraska State Penitentiary where he is a Gothi (priest).
4. Affiants advise the Court that there has been no prison staff posted at the metal detector shack during Asatru ceremonies on Asatru land (Ve').
5. Asatru's Ve is under constant observation by prison staff posted in towers #5 and #6 and central control observes the Kindred members through cameras.

EXHIBIT

# 7

6. Towers #7 and #10 can view portions of Asatru's Ve'.

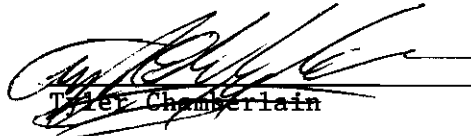
7. The above security observations are noted during our Asatru ceremonies/ rituals called Blots and Sumble. These are ritual cleansing of the Ve' from Gods.

8. Asatru Blots and Sumbles are based out of the Volspa in the Poetic Edda.

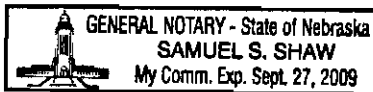
In particular, the Creation, Bladers Death, and Ragnarok. That is the Life and Death of the Gods and Goddessess.

9. Ritual cleansing of the Ve' by any rival cult would drive out the Wights (Spirits of the Ve') and Gods and Goddessess. At that point they would not return.

Further, Affiant sayeth naught.

  
Tyler Chamberlain

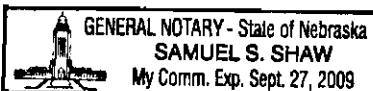
Subscribed and Sworn to before me this 7<sup>th</sup> day of July, 2009.

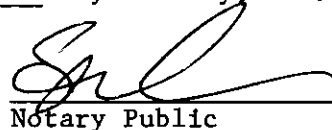


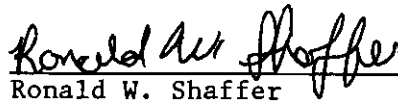
  
Notary Public

  
Rodney Lowe

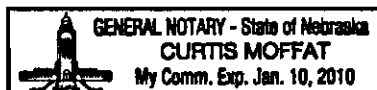
Subscribed and Sworn to before me this 7<sup>th</sup> day of July, 2009.

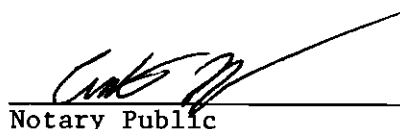


  
Notary Public

  
Ronald W. Shaffer

Subscribed and Sworn to before me this 7<sup>th</sup> day of July, 2009.



  
Notary Public

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WOLFGANG RÜST and BOBBY CONN, ) 4:08CV3185  
 )  
Plaintiffs, )  
 )  
 )  
VS. ) AFFIDAVIT  
 )  
 )  
NEBRASKA DEPARTMENT OF )  
CORRECTIONAL SERVICES RELIGION )  
STUDY COMMITTEE, et al., )  
 )  
Defendants. )

STATE OF NEBRASKA )  
 )ss.  
COUNTY OF LANCASTER)

I, Wolfgang Rüst, Plaintiff in the above captioned matter, after being first duly sworn on oath and/or affirmation, state and depose the following:

1. This Affidavit is based on my personal knowledge. This Affidavit was prepared to accompany Plaintiffs' Brief in Opposition of Defendants' Motion for Summary Judgment.

2. Plaintiffs Amended Complaint with ten exhibits annexed and incorporated therein by reference is submitted as an Affidavit in Opposition of the Defendants' Motion for Summary Judgment. Plaintiffs' Amended Complaint and ten exhibits are equivalent to an Affidavit for purposes of summary judgment. Williams v. Adams, 935 F.2d 960, 961 (8th Cir. 1991); Callum v. Axdahl, 2007 WL 1289949 (D.Neb. 3/12/07) at 1.

3. In early 1999 I submitted a paper titled "Ravens Hearth Religious Beliefs" to former Nebraska State Penitentiary (hereinafter NSP) Chaplain Perreira and Theodish Belief Sacral King Garman Lord. At the time I was struggling to understand the tribal belief tradition and the paper I submitted was very audimentary. Since early 1999 I have grown in knowledge and wisdom which is exhibited in the "A Proposal for Recognition of Theodish Belief" (hereinafter "Proposal") and the "Synopsis of the Differences Between Theodish Belief and Asatru" (hereinafter "Synopsis") that were submitted on July 25, 2003 to the Nebraska Department of Correctional Services Religion Study Committee by former NSP Religious Coordinator Randall Donner.

4. Theodish Belief Sacral King Garman Lord would not endorse the paper titled "Ravens Hearth Religious Beliefs" (Defendants' Ex. #14).

5. Theodish Belief Sacral King Garman Lord endorsed Plaintiff Rust's Proposal and Synopsis in the January 6, 2004 letter (Defendants' Ex. #17).

6. Defendants are denying the Plaintiffs our religion premised on the early 1999 paper titled "Ravens Hearth Religious Beliefs" which was drafted when I was struggling to learn and understand the tribal belief tradition.

7. At approximately 1:30 p.m. on May 28, 2009, the Plaintiffs' expert witness Mr. J.Dirk Reek was deposed at the Nebraska State Penitentiary.

8. Assistant Attorney General Ryan C. Gilbride, Plaintiff Bobby Conn, and Plaintiff Rust were present at the deposition of Mr. J.Dirk Reek.

9. Assistant Attorney General has not provided the Plaintiffs with a copy of Mr. J.Dirk Reek's testimony at the May 28, 2009 deposition.

10. During the deposition, Mr. J.Dirk Reek testified that Garman Lords writings demonstrated there was a break in the Theodish Belief relationship with Asatru where the two groups evolved into separate and distinct religious beliefs and practices. Mr. Reek testified that this break was analogous to Martin Luther's schism from the Catholic Church to create the Lutheran Protestant Church.

11. On September 27, 2004, Plaintiff Rust submitted a nine page Interview Request to the Religion Study Committee requesting authorization to purchase (with our personal funds) "organic foodstuffs" and "free range meat products" from Open Harvest Natural Foods Grocery, Lincoln, NE, or from a similar organic natural food grocery, for the Theodish Belief Sacrificial Blot.

12. Plaintiffs will purchase (with our personal funds) or obtain assistance from Theodsmen (in free society) to purchase Theodish Belief faith specific devotional items, etc. We will not accept funds from the Nebraska Department of Correctional Services for any Theodish Belief devotional item.

13. That no Correctional Officer is assigned to be physically



present, on or near, the Native American Sweatlodge and the Asatru Ve (Land) during the assigned worship time periods for the Native Americans and Asatru.

14. That the Native American Sweatlodge and the Asatru Ve is within direct observation of the Correctional Officers assigned to NSP Security Towers #5 and 6, and the NSP Security Cameras.

15. That each NSP Security Tower has a Correctional Officer assigned at all times for security purposes.

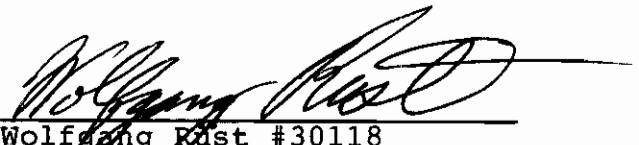
16. Defendants refused to consider the Plaintiffs' sincerely held religious beliefs and practices within the Plaintiffs' own scheme of things religious. Instead, Defendants required the Plaintiffs' beliefs and practices to be "community wide practices" of Theodish Belief nation wide, "necessary or essential for the practice of", "Theological tenets of", etc. The Defendants mandatory tenet requirement is set forth in Administrative Regulation 208.01 RELIGIOUS SERVICES; (Defendants' Exhibits #1, 30, 31, 32, 33, 34, 35, and 36); Defendants' "Brief in Support of Motion for Summary Judgment"; Theodish Religious Property Sub-Committee Recommendations (Defendants Ex. #11), etc.

17. Theodish Belief and Asatru cannot worship together in one communal worship time or use the same sacred space as set forth in the Amended Complaint, Proposal, and Synopsis because Asatru refuses to accept or swear loyalty to the mystic holy principle of the Theodish institution of Sacral Kingship. This refusal to honor the mystic holy principle of the Theodish


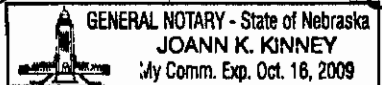
institution of Sacral Kingship is a blasphemous insult to both the Sacral King and to what our religion stands for. The aforesaid position has been emphasised repeatedly to the NDCS Religion Department Staff.

Further Affiant saith not.

Dated this 8<sup>th</sup> day of July, 2009.

  
Wolfgang Rist #30118  
Affiant/Plaintiff  
Nebraska State Penitentiary  
P.O. Box 2500  
Lincoln, NE 68542-2500

SUBSCRIBED AND SWORN to before me this 8 day of July, 2009.


  
NOTARY PUBLIC  


CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Affidavit was sent to the Defendants, by and through their attorney of record, via U.S. Mail Services, first class mail, postage pre-paid, on this 8<sup>th</sup> day of July, 2009.

Addressed to:

Mr. Ryan C. Gilbride  
Assistant Attorney General  
2115 State Capitol  
Lincoln, NE 68509

  
Wolfgang Rust #30118  
Affiant/Plaintiff  
Nebraska State Penitentiary  
P.O. Box 2500  
Lincoln, NE 68542-2500

Internet Name Wolfgang Rist  
Invoice Number 30198  
Box 2500  
Omaha, NE 68102-2500  
A communication has been sent from  
this office to the  
U.S. District Court.

46-03-13

Office of the Clerk  
United States District Court  
Roman L. Hruska U.S. Courthouse  
111 S. 18<sup>th</sup> Plaza, Suite 1152  
Omaha, NE 68102-1322

